



MASTER OF ARTS IN PUBLIC ADMINISTRATION

SEMESTER-II

PAD-2.4: LOCAL GOVERNANCE

CREDIT: 4

BLOCK: 1,2,3 & 4

AUTHOR

Mr. Abdul Rehman Ansari



ଦୂର ଓ ଅନୁଲାଇନ ଶିକ୍ଷା କେନ୍ଦ୍ର, ଉତ୍କଳ ବିଶ୍ୱବିଦ୍ୟାଳୟ
CENTRE FOR DISTANCE AND ONLINE EDUCATION
UTKAL UNIVERSITY

CDOE, UTKAL UNIVERSITY, VANI VIHAR, BHUBANESWAR, ODISHA

Programme Name: **Master of Arts (Public Administration)**

Programme Code: **010318**

Course Name: **Local Governance**

Course Code: **PAD -2.4**

Semester: II

Credit: 4

Block No. 1 to 4

Unit No. 1 to 16

Pages: 250

EXPERT COMMITTEE

Prof. Niranjan Pani (Chairman)

Former Prof. Department of Public Administration,
Utkal University, Bhubaneswar

Prof. Padmalaya Mahapatra (Member)

Prof. PG Dept. of Public Administration,
Utkal University, Bhubaneswar

Dr. Pratima Sarangi (Member)

Prof. PG Dept. of Public Administration,
Utkal University, Bhubaneswar

Dr. Hemanta Kumar Dash

Prof. PG Dept. of Public Administration,
Utkal University, Bhubaneswar

COURSE WRITERS

Mr. Abdul Rehman Ansari
Guest Faculty
Jamia Milia Islamia, Delhi

Printed and Published by

Utkal University



ABOUT THE UNIVERSITY

Founded in 1943, Utkal University is the 17th University of the country and the first of Orissa. It is the result of the efforts of Pandit Nilakantha Dash, Maharaja Krushna Chandra Gajapati, Pandit Godavarish Mishra and many others who envisioned a progressive education system for modern Orissa.

The University started functioning on 27 November 1943, at Ravenshaw College, Cuttack. It originated as an affiliating and examining body but shifted to its present campus spread over 400 acres of land at Vani Vihar in Bhubaneswar, in 1962.

A number of Postgraduate Departments and other centres were established in the University campus. There are presently more than two hundred general affiliated colleges under the University. It has eleven autonomous colleges under its jurisdiction, twenty-eight constituent postgraduate departments, 2 constituent law colleges and a Directorate of Distance & Continuing Education. It boasts of a centre for Population Studies, a School of Women's Studies, an Academic Staff College, a pre-school and a high school. The University also offers a number of self-financing courses.

NAAC accredited in its 3rd at in 2023. It is a member of the Indian Association of Universities and the Commonwealth Association of Universities.

From the Director's Desk

The Centre for Distance & Online Education, Utkal University has been providing education to the unreached for nearly half a century. It has helped thousands of excluded students to reach the portals of higher education. **'EDUCATION FOR ALL'** is our motto. Increasingly the Open and Distance Learning institutions are aspiring to provide education for anyone, anytime and anywhere. CDOE, Utkal University has been constantly striving to rise up to the challenges of Open Distance Learning system. To meet the needs of quality enhancement and to address the quality concerns of our stake holders over the years we are switching over to self instruction material printed courseware. Earlier, text books were procured from open markets and distributed. In a limited way we had also produced courseware. These did not meet the full requirement of our learners. We also lack competence in editing, printing and producing printed courseware. Now we have entered into public private partnership to bring out quality SIM pattern courseware. Leading publishers have come forward to share their expertise with us. A number of reputed authors have now prepared the course ware. Self Instructional Material in printed book format continues to be the core learning material for distance learners. We are sure that students would go beyond the courseware provided by us. We are aware that most of you are working and have also family responsibility. Please remember that only a busy person has time for everything and a lazy person has none. We are sure you will be able to chalk out a well planned programme to study the courseware. By choosing to pursue a course in distance mode you have made a commitment for self improvement and acquiring higher educational qualification. You should rise up to your commitment. Every student must go beyond the standard books and self instructional course material. You should read number of books and use ICT learning resources like the internet, television and radio programmes, etc. As only limited number of classes will be held a student should come to the personal contact programme well prepared. The PCP should be used for clarification of doubt and counseling. This can only happen if you read the course material before PCP. You can always mail your feedback on the courseware to us. It is very important that you discuss the contents of the course materials with other fellow learners.

We wish you happy reading.

DIRECTOR

SEMESTER – 2
COURSE CODE – PAD – 2.4
TITLE: LOCAL GOVERNANCE

BRIEF CONTENT

Block No.	Block Name	Unit No.	Unit
1	LOCAL SELF-GOVERNMENT AND ADMINISTRATION	1	Local Self-Government - History of the Ideas and Principles
		2	Local Self-government and the Idea of Autonomy and Decentralization
		3	Problems of Decentralization
		4	Local Self-Government in UK, USA and France
Block No.	Block Name	Unit No.	Unit
2	URBAN GOVERNMENT IN INDIA: EVOLUTION AND STRUCTURE	5	Evolution of Urban Government in India
		6	Structure of the Urban Local Self-government in India
		7	District Planning Committee
		8	Municipal Corporations and their Problems of Autonomy and Accountability
Block No.	Block Name	Unit No.	Unit
3	EVOLUTION AND STRUCTURE OF RURAL GOVERNMENT IN INDIA	9	Evolution of Rural Self-government in India
		10	Structure, Function and Sources of Finance of the Rural Local Government in India
		11	Problems and prospects of rural self-government in India

		12	Problem and prospects of urban local self-government in India
Block No.	Block Name	Unit No.	Unit
4	STATE-LOCAL RELATIONSHIP: AUTONOMY OF LOCAL BODIES	13	Autonomy of the Local Bodies
		14	Reforms in the urban and rural bodies: 73rd and 74th constitutional amendment acts
		15	The constitution (seventy-third amendment) act, 1992
		16	The constitution (seventy-fourth amendment) act, 1992

Contents

Blocks /Units

Page No.

Block-1 LOCAL SELF-GOVERNMENT AND ADMINISTRATION

Unit-1: Local Self-Government - History of the Ideas and Principles

Unit-2: Local Self-government and the Idea of Autonomy and Decentralization

Unit-3: Problems of Decentralization

Unit-4: Local Self-Government in UK, USA and France

Block-2 URBAN GOVERNMENT IN INDIA:EVOLUTION AND STRUCTURE

Unit-5: Evolution of Urban Government in India

Unit-6: Structure of the Urban Local Self-government in India

Unit-7: District Planning Committee

Unit-8: Municipal Corporations and their Problems of Autonomy and Accountability

Block-3 EVOLUTION AND STRUCTURE OF RURAL GOVERNMENT IN INDIA

Unit-9: Evolution of Rural Self-government in India

Unit-10: Structure, Function and Sources of Finance of the Rural Local Government in India

Unit-11: Problems and prospects of rural self- government in India

Unit-12: Problem and prospects of urban local self-government in India

Block-4 STATE-LOCAL RELATIONSHIP: AUTONOMY OF LOCAL BODIES

Unit-13: Autonomy of the Local Bodies

Unit-14: Reforms in the urban and rural bodies: 73rd and 74th constitutional amendment acts

Unit-15: The constitution (seventy-third amendment) act, 1992

Unit-16: The constitution (seventy-fourth amendment) act, 1992

UNIT 1 LOCAL SELF- GOVERNMENT AND ADMINISTRATION

NOTES

Structure

- 1.0 Introduction
- 1.1 Unit Objectives
- 1.2 Local Self-Government - History of the Ideas and Principles
- 1.3 Local Self-government and the Idea of Autonomy and Decentralization
- 1.4 Need and Rationale for Local Self-government
- 1.5 Problems of Decentralization
- 1.6 Local Self-Government in UK, USA and France
 - 1.6.1 Local Government in England
 - 1.6.2 Local Government in United States of America
 - 1.6.3 Local Self-government in France
- 1.7 Summary
- 1.8 Key Terms
- 1.9 Answers to 'Check Your Progress'
- 1.10 Questions and Exercises
- 1.11 Further Reading
 - References

1.0 INTRODUCTION

Local self-government means a system of subordinate local authorities to tackle the local level issues and problems in a political system. In the last century they have developed in most of the modern states. According to Hugh Whalen, 'each unit of local government in any system is assumed to possess the following characteristics: a given territory and population; an institutional structure for legislative, executive, or administrative purposes; a separate legal identity; a range of power and functions authorized by delegation from the appropriate central or intermediate legislature' (1960: 377). According to Harold J Laski, local self-government helps to cultivate civic sense and responsibility among citizens and coordinates harmonious collaboration in the administration of common interests (2004: 411). According to Clark, it is 'that part of the government of a nation or state which deals mainly with such matters as concern the inhabitants of a particular district or place together with those matters which parliament has deemed it desirable should be administered by local authorities subordinate to the central government'. According to W. A. Robson, 'Local government may be said to involve the conception of territorial, non-sovereign community possessing the legal right and necessary organization to regulate its own affairs'. According to Sidgwick 'Local government consists of certain subordinate bodies which have defined powers of making rules and regulations

NOTES

within their prescribed areas of administration'. Hence, local self-government is a part of the political system which is responsible for administration of the issues concerned with a particular locality and their residents. Unlike national or central authorities, local authorities do not enjoy any power beyond their defined territorial boundaries. One of the main distinctions between local self-government and national government is that local authorities do not enjoy sovereignty. Their powers are assigned by and delegated from the central authorities.

In order to appreciate the value of local self-government, first of all, it is essential to review those forces which in the course of the nineteenth century swept modern nations onward from loose connections of villages to their highly integrated and heavily laden condition of the present day. Most of the countries at the time of advent of modern age were primarily agricultural. If we them from today's point of view, their governmental organizations were anarchic. They were neither unitary nor federal in the sense of the meaning of those words today. Throughout the nineteenth and twentieth centuries, most of these states first saw a high level of centralization. Due to the high levels of centralizations certain remote areas and their various problems remained unresolved. It is very important to know the nature factors and the values which ultimately gave birth to the idea of decentralization of powers. When decentralization became popular in both as a necessary step in the development of the idea of democracy and as an instrument for the better functioning of the administration we find the birth of the idea of local self-government.

1.1 UNIT OBJECTIVES

After going through this unit, you will be able to:

- Know the meaning of the local self-government
- Learn about the development of this concept in Europe and later to other parts of the world.
- Explain the meaning and need for decentralization and some of the problems of local self-government
- Discuss the nature and functioning local self-government in countries like USA (United States of America), UK (United Kingdom) and France

1.2 LOCAL SELF-GOVERNMENT - HISTORY OF THE IDEAS AND PRINCIPLES

There are three main principles to define the idea of a local self-government; democracy, autonomy and decentralization. In this section we are going to study these principles and their relationship with the idea of local self-government in detail.

The relation between local self-government and democracy

Local self-government cannot sustain without democracy. Democracy broadly means a system of national political institutions and constitutional rules through which citizens are enabled to choose, influence and dismiss governments; a system in which the requirements of Lincoln's classic formula are fulfilled, together with its accompanying climate or atmosphere. A democratic society gives every individual the right to be a party of the government and decide about his or her fate. Democracy cannot stay aloof to the demands of people and their aspirations.

There are three different views regarding the relationship between local self-government and democracy. We shall see all these three views here. First defines local self-government in such a manner that democracy is shown to be incompatible with its true nature; the second defines democracy in such a manner that local self-government is proved to be incompatible with its true nature. The third theory, much more loosely articulated than the first two, stipulates definitions to permit the conclusion or assumption that local self-government and democracy are organically related, mutually dependent and reciprocally self-sustaining. After an analysis of these concepts an alternative method of approaching local government and democracy is suggested.

The principle of local level autonomy in deciding their day-to-day affairs was a result of the political and economic developments in the nineteenth century. In other words, the belief that an ultimate political value attaches to the practice of local self-government was developed systematically in the nineteenth century (Whalen 1960: 379). According to Whalen, this idea is a brain child of the Prussian idealist Rudolf von Gneist (Ibid). Gneist did an extensive study of English political institutions. On the basis of his study he concluded that the principle of self-government was necessarily the primary value and the essential practical ingredient, in any ideal commonwealth. In any polity where internal administration is carried on locally under the general laws in towns and districts by local officers can be called local self-government. The funds required for the expenses in executing the duties locally are also mobilized locally. In Gneist's definition, the objects of self-government was just to deliver on those functions of domestic administration, which could be best managed by the personal services and by the contributions of local communities. According to Gneist, this principle of self-government only required senior local officials who possessed the true character of office-bearers. He strictly proposed them to be nominated and not elected by local people (Ibid: 379-380). In an ideal scheme of local self-government the ordinary courts of law were accorded primacy in local administration. The local magistrates were seen as the main agents of self-government. They were provided with combined powers and functions of delivering justice and maintaining administration.

NOTES

NOTES

The whole idea of local self-government was started as an attempt to create an internally independent administration. These local bodies were considered to be independent of central or at that time national ministers and parties. According to Gneist, 'self-government is strictly class government. It combines the personal duties and financial burdens of owners of property and gives them political rights to correspond' (Ibid: 380). The whole idea of giving more rights to the upper classes in Gneist's scheme of an ideal local self-government was to recognize the role of these classes as the most responsible classes. This started a practice of making eligibility to the higher offices depend upon the possession of large landed estates.

Behind the dialectical effusions of this Prussian official lay a rooted aversion to the social and political consequences of the industrial revolution. Repeatedly he misjudged the political role of the emerging middle classes and idealized monarchical and aristocratic norms of government; he rejected out of hand the ideal of equality and the practice of an extended franchise. His system, in a word, was an eloquent refutation of the entire rationale and the extended institutional paraphernalia of democratic government. 'No vital philosophy of local government,' he says, 'can come to mankind by way of representative institutions.' He considered the spread of electoral practices, particularly noxious: with the introduction of elected local authorities, self-government thereupon ceases to be the basis of class organization; a communal life in which the local elector only takes part every three years by dropping a voting paper into a box is no longer a link which holds together classes with distinct interests by imposing a daily round of duties owed from man to man, unites and reconciles the propertied to the working classes and accustoms them to live peaceably together. While the 'parochial mind' extinguishes the propertied classes, with their theories of voluntarism, drawing them further and further apart from the working classes with their doctrines of communism and socialism.

Since the political practice of England moved steadily away from Gneist's ideal commonwealth during the second half of the nineteenth century, he was forced, like many political writers after him, to interpret the growth of democracy as a steady decay of the British constitution. A state, whose practice depended increasingly on the idea of natural political equality, was to Hegelian philosophers, meaningless, undefined and purposeless. 'The course of English constitutional development', concluded Gneist, 'leaves us to assume that the third generation will live in an era of radical action against the old governing classes and of a violent reaction in their favour and all appearances point to the end of the nineteenth century witnessing the same political storms in England as those which after its beginning burst over the constitution of continental countries' (Ibid: 381).

According to Whalen, 'Gneist's theory of self-government tells us nothing about the status of local political processes in a democratic state.' He further says, 'in the interests of his theory, he (Gneist)

misinterpreted the significance of every major reform in local government'. In the later years, as the need of more and more powers at the local levels was felt, central governments in different parts of Europe transferred first, local administration from magistrates appointed by the central government to local authorities, elected by local communities; Second, they created local institutions enabling the middle and later the working classes to participate in municipal government; Third, they delegated wholesale new functions associated with expanded public services to locally elected officials; and Fourth, they invented a committee technique, which enabled a larger number of citizens to be brought into direct contact with local political problems in a practical way (Ibid: 380).

A dominant feature of the unreformed system of local government in England was the wholesale subordination of administrative efficiency, to the maintenance of class rule. Patronage appointments, in the gift of the local gentry, produced local officials who were everywhere regarded as 'poor dependents of the nearest squire.' The reform measures of 1834-5 were the beginning of a necessary rationalization which culminated in the widespread employment of well-trained and paid technical staffs in local government service. This reform was needed, since it enabled the community to take effective advantage of the fruits of scientific discovery with regard to the provision of an increasingly diversified and more complex range of local works, amenities and services.

A changed image of the administrative competence of representative local authorities, perhaps one of the greatest English contributions to democratic practice during the last century, could never have materialized without the development of local administrative elite, nor without the enlightened leadership of officials like Chadwick, who sought to develop viable local authorities through rigorous central direction and control. Gneist, like Toulmin-Smith before him, condemned these necessary reforms as destructive of the true principle of local self-government. His fertile imagination produced an antithesis between magisterial (*obrigkeitlich*) and commercial (*wirtschaftlich*) self-government, the latter being elective, dominated by 'the particularized interests of local combinations' and destructive of the essential objects of magisterial, or moral government. Gneist thus projected an allegedly fatal central-local conflict long after it had been settled in practice and predicted that French ideas and practices, equally misconstrued, would ultimately prevail in England. Indeed, he took pains to assert that a new centralized monarchy would emerge to save the state from factions, organized commercial interests, parties and society.

The second theory under consideration purports to prove that local self-government, as it is currently practiced in democratic states, is inimical to the true principle of democracy. 'Democracy,' writes Professor Langrod, 'is by definition an egalitarian, majority and Unitarian system that tends to be everywhere and at all times to create a social whole, a

NOTES

NOTES

community which is uniform, leveled and subject to rules.' According to this view, democracy tends to abhor atomization and the appearance of intermediaries between the whole and the individual. It is thus a feature of democracy that the individual is brought face-to-face with the complete whole, directly and singly. Local self-government, on the other hand, is defined as a phenomenon of differentiation, of individualization, of separation. According to this view of democracy and local self-government since democracy moves inevitably and by its very essence towards centralization, local government, by the division which it creates, constitutes, all things considered, a negation of democracy. Therefore democratization of the state tends to transform its government progressively into self-government of the whole population, which must, during the course of this evolution, make any local government opposed to the central government, superfluous and devoid of any logical basis. Local government and democracy successfully represent diametrically opposite tendencies; the incompatibility of democratic principle with the practice of decentralization is a phenomenon so evident that it may be considered as a kind of sociological law.

Here, then, is posed a contradiction between two principles which, in spite of appearances, are in actual conflict. Langrod argues, in fact, that the essence of democracy consists of the unlimited domination of the overall or national majority in the event that it should conflict with a local majority. Local government, he thinks, serves local oligarchies, political coteries and other antidemocratic forces; it therefore seldom constitutes a true reflection of the public will. He concludes that local government seems to correspond much more closely with liberal political ideas than with those of democracy. Throughout, the rationalism of this theory is justified by an exhortation not to confuse words with reality, not to be content with a facade often fictitious and deceptive, but to look always at the heart of the problem. Langrod's stipulating definitions of democracy and local government constitute a curious blend of selective empirical observations and rigid a priority.

These particular conceptions appear to give expression, in institutional terms, to Rousseau's doctrine of the general will and to a tradition in political thought which we will style totalitarian democracy. Rousseau, at least in one of his positions, was clearly opposed to the exercise of sovereignty by any body other than the entire community, but his ideal community was, in practice, the small locality of the eighteenth century. This monistic conception of liberty, what Sir Isaiah Berlin has described as the yearning for positive freedom of collective self-direction, tends to assume the ultimate absolute priority of egalitarianism, over all competing goals. In the vast disciplined and authoritarian structures with their attendant bureaucratic centralism, is seen the idealised self-mastery of classes, of entire communities and of the whole human race. When it is thus defined by Langrod, democracy embodies the principle of compulsory rational freedom, an idea which conveniently repudiates the conventional antithesis between freedom

and compulsion and rests upon a stipulated definition of liberty. (To Bentham's question, 'Is not liberty to do evil, liberty?', the totalitarian democratic reply is: 'No man is free in doing evil; to prevent him from so doing is to set him free.')

Given these assumptions, there can plainly be no rational basis for local or subordinate political institutions. Popular sovereignty, as embodied in national or central political institutions, is emasculated through the working of particular local group wills.

This doctrine bears some relation to Gneist's concept of commercial self-government set forth above, but it contains as well an almost Marxian inevitability: 'Local government has within itself, inevitably, the seed of its own death. Once the process of democratization is accomplished, democracy in action will claim then, sooner or later, a breakaway from the fundamental idea of local government and will demand administrative centralization.'

In spite of the emotional and rational force of the two theories discussed above, a third theory—first developed systematically by J. S. Mill in *Liberty* (1859) and *Considerations on Representative Government* (1861), has had a long and influential career in the Anglo-American tradition of political thought. Mill's liberalism rejects the statism of Gneist and favours some measure of popular democracy, but asserts that government by the people in Langrod's sense is the negation of freedom. This variety of liberalism, along with that of Tocqueville and Constant, has its ethical bearings in the principle of the immorality of compulsion. When it is given institutional expression, this theory postulates a large measure of political and social pluralism. The liberty of the citizen, in things where the individual is alone concerned, implies, according to Mill, a corresponding liberty in any number of people 'to regulate, by mutual agreement, such things as regard them jointly and to regard no persons but themselves.' The definitions of local self-government and democracy stipulated in this doctrine, therefore, derive in the first instance from an assertion of the ultimate absolute priority of liberty—liberty understood as absence of restraint in relation to those self-regarding actions of individuals, groups and local political authorities. Modern liberal theory points to the fatal flaw in Rousseau's conception of the general will: popular sovereignty can easily destroy that of individuals; the tyranny of prevailing feeling and opinion constitutes the negation of freedom.

In his quest for a 'social spirit' to articulate political life, Rousseau was forced to recommend the inculcation of a civic religion and other totalitarian devices. But in creative individualism, liberalism sees the natural generator of social and political spirit. The exercise of freedom, which Mill extends to the management of purely local business by localities, is recommended on the ground of the individuality of development and diversity of modes of action. Indeed, the practice of local independence on this reading, promotes a knowledge of public affairs, engenders sympathy and a willingness to compromise, acts as a brake on the natural excesses of misguided enthusiasm and induces a beneficial sense of restraint in both political and administrative officials,

NOTES

NOTES

who are, it is assumed, in perpetual face-to-face relation with a public that both, comprehends and takes an interest in local political issues.

The principal liberal fear, however, was that political power in the hands of public officials would in practice destroy the supreme worth of the individual and the local community, which their ethical and psychological theories purported to establish. The liberal mechanism of control, including local self-government, defines an abuse of power as any threat to liberal, social ideals mounted either by the non-democratic few (Gneist's ideal), or by the democratic majority (Langrod's ideal). In liberal theory, therefore, local self-government provides an important institutional buffer against non-liberal and illiberal social tendencies. The suggestion that local authorities help to sustain a liberal way of life means that they tend to be evaluated by liberal ideologists, not so much in relation to a given configuration of ideal democratic political institutions, considered apart from its social context, but rather in relation to a liberal social theory and to a liberal programme or policy. The tension which exists among the three theories, described in this paper, is thus only superficially a conflict over the constitutional status and powers of local government in a democratic state; the real conflict of these theories arises out of three mutually exclusive social ideals with different political strategies, programmes or policies.

Liberal ideology usually contrives skilfully to conceal its true social bearing. Local self-government is alleged to possess a uniquely democratic political quality and is normally endowed with an absolute political value in extravagantly emotive language. In Tocqueville's words, for instance, local government is seen to be 'so perfectly natural that wherever a number of men are collected together it seems to constitute itself.' Historically, local institutions are assumed to be coeval with man. Next, by some mysterious alchemy, intuition supplies a causal sequence which miraculously synthesizes the historic observation of local government and liberal democracy. From the roots of ancient Aryan tribes, through Anglo-Saxon tithing and shires and through Frankish communes, Swedish *kipingarna* and Indian *panchayats* are thought to have evolved all the famous legislatures in the world. One writer observes that 'organized towns came to Massachusetts from England and thence to Connecticut and became political cells from whose unity developed the federal state'; another writer mentions about the 'primordial cells' of democracy; while Bryce writes of 'tiny fountain-heads of democracy, rising among the rocks, sometimes lost altogether in their course, sometimes running underground to appear at last in fuller volume.' One cannot escape the use of poetic images, metaphors and other literary devices to describe the morphology of political institutions; but it is a short distance from inspired figurative description to empty assertions of the undoubted immemorial rights, privileges and prerogatives of local institutions.

Other writers have employed more prosaic methods. Professor Herman Finer, for example, has put forward a pseudo-empirical

hypothesis, which purports to show that in practice, local political processes are an inevitable concomitant of political democracy. He writes that, the government by its very nature has a tendency toward centralization and the imposition of uniform standards over the largest possible area. When faced with commands, based upon average or general considerations, the products of bureaucratic reporting and statistical analysis—the individual, the small group and the local community respond, naturally and necessarily we are told, by demanding and exercising local freedom. Thus, as against the abstract view of people and communities, characteristic of central public administration there is a continuing reaction which manifests itself practically in local self-government. According to this view, there must be, in any democratic state, a local authority making government pliable to the idiosyncrasies and angularities and plastic by reference to peculiar and individual circumstances. Whether such a political tendency does or does not exist, Professor Finer clearly implies that the reaction described above is caused solely by the exercise of central political power and that it occurs irrespective of the content of the power, so exercised. By failing to distinguish political power of different kinds, that is to say to distinguish the nature of different central political strategies and programmes, Professor Finer is really saying, perhaps unconsciously, that a significant element in current central government operations is inimical to the liberal way of life.

A concealed ideological element of this nature pervades most of the contemporary writing on local political problems. Professor K. G. Crawford, for example, urges that in the event of a conflict between local independence and the implementation of policies formulated by the province on behalf of the larger community, it may still be necessary to allow a wide measure of municipal independence, lest the ultimate purpose of the preservation of the democratic system be frustrated in pursuit of some less vital short-run purpose. What is meant, as distinct from what is actually said, is this: 'Local independence and the democratic system are mutually interdependent; destroy local independence and you destroy, not the democratic system, but the traditional liberal society based upon nineteenth-century ideals.' Many other similar justifications for local self-government are to be found in traditional and contemporary literature; but all of them suggest that liberals find it impossible to attack the policies and programmes of the democratic welfare state directly. Instead, large claims are made for principles and institutions that supposedly must be strengthened or retained if freedom, as defined in liberal social theory, is to be realized. Many of the current liberal strictures against centralization compare with the denunciations of administrative tribunals produced by lawyers such as, Hewart, Allen and Keeton. The real purpose, as distinct from the apparent purpose of those attacks, was to oppose indirectly the drift of public policy: the instrument of those indirect attacks was invariably a vindication of the rule of law. The liberal dilemma is indeed a difficult

NOTES

NOTES

one and is succinctly stated in the following manner: Liberals have been primarily concerned to promote a liberal way of life, yet they have not been prepared to recognize that their adherence to democratic institutions has been usually subordinate to that end. As an article of faith, they have assumed that a properly functioning democracy will inevitably secure the way of life in which they are interested. This has been so nearly the case in the main western democracies over the last century, as to prevent the various elements of liberal democracy from falling apart. Apart from this, experience has taught liberals that if democracy will not create the society they seek, then that society must be recognized as a dream; no other system of government will do. Disenchantment with kings and aristocrats has left no alternative repository of trust except the people.

In spite of its many hues and nuances, the liberalism of Tocqueville and Mill tends to consistently stipulate the same general beliefs about local self-government and democracy. First, it is demonstrated that political and social conditions in the small community foster rational democratic behaviour, to which is added the ethical injunction that man should so behave (and in some recent formulations it is suggested that men do so behave). If freedom exercised locally tends automatically to strengthen the aptitude for freedom in the larger community, local self-government then promotes the democratic climate of opinion. Notwithstanding the individualistic assumptions of liberal doctrine, an additional and no less important aspect of it is the notion of toleration and compromise, of give and take, of appreciation and sympathy for the other fellow's interests. In this respect, local self-government assumes a special value because if appreciation of one another's standpoint is not learnt in local communities there is a risk of its not being learnt at all. So far from being incompatible with democracy, as Langrod suggests, local self-government is its active and necessary partner and the pursuit of local interests in subordinate representative institutions cannot conflict with the supremacy of the general interest of the state. Because strong and independent municipal authorities are thought to promote liberal social ideals, the practice of local self-government becomes a bastion of democracy or the strength of free nations. As Tocqueville remarked, 'A nation may establish a system of free government, but without the spirit of municipal institutions it cannot have the spirit of liberty. The transient passions and interests of the hour, or the chance of circumstances, may have created the external forms of independence; but the despotic tendency which has been repelled will, sooner or later, inevitably reappear on the surface.'

Tocqueville's municipal pluralism was, in the deepest sense, a reaction against what he considered to be a great potential threat to a liberal way of life: nationalism, industrialism and central bureaucratization. The social equilibrium which he idealized and which was thought to rest in large measure on the smaller local centres of power, seemed threatened by the entry of newer and lower classes on

NOTES

the political stage. With the projected atrophy of local leviathans, there would be a decline in effective social conflict; and there could be little political competition without the social basis to sustain it. In small, psychologically meaningful political units, the citizens of an atomized society would gradually lose their individual and communal spirit. Tocqueville feared that this consequence would surely produce the of liberal idealism: a triumphant central bureaucracy.

The liberal concept of democracy requires, therefore, that local self-government be accorded not merely a high but an indispensable and absolute value in the constitutional scheme. Local independence, on this view, is a matter of political principle, not a matter of administrative expediency. Local authorities exercising appropriate functions must be truly self-governing and viable; they must not be merely decentralized subsidiary elements of the central state machinery. The foregoing analysis suggests that a purely ideological approach to the assessment of the true status of local self-government, in the conditions of a democratic welfare state, will produce little enlightenment. The reason, in Aristotle's terminology, is that everything within an ideological or rationalism frame of reference is a matter of prior analytics, or of stipulative political definition, while posterior analytics, which reveal the conditions of scientific or demonstrable knowledge, are neglected. Given the stipulative definitions of the three theories discussed above, there is no possibility of reconciling the conflict among them in rational terms. In Gneist's framework, there can be no rational justification for the transformation shaped in English local institutions, by liberal policies during the nineteenth century; nor can the development of liberal systems of local government in other countries be adequately explained. And there can be no reconciliation, as between the theories of Langrod and Mill. Yet the majority of definitions do not give any real explanation for the existence of strong systems of local government in many countries, where social policy has evolved well beyond the ideals defined in liberal social theory.

The liberal definitions, on the other hand, when taken to be axiomatic, imply that local government may never exist in an undemocratic or only formally democratic state; or that local self-government must be found and must be found in more than form, in all fully democratic communities. All of these difficulties, however, are the consequences of definitions, as stipulated by the believers of majoritarianism and liberals.

It is commonly regarded as a kind of intellectual treason to suggest that there are no principles on which political institutions rest. Yet government in all countries and at all levels is essentially a practical art, the product of appraisal, persuasion and decision by elected and appointed public authorities within a given tradition, not a matter of abstract reasoning or the product of a mere interaction of groups. When this view is applied to the subject at hand, the logical impasse, which was observed above is seen to be a misunderstanding: no problem in

NOTES

fact exists, except a purely verbal one. Such questions as 'Is there a relation of cause and effect between local self-government and democracy?' and 'Is democratization of the state favourable or inimical to the existence of local government?' can never really be answered except in a formal sense: implicit in any answer to such questions, that is to say, must be some image of ideal democracy. Democratic states operate a variety of local government systems for a number of practical reasons. Nevertheless, it should be clear that most of the political institutions grow out of the cultural and social environment and are the products of unconscious habits, mores, desires and fears as much as, if not more than, the results of deliberate human will. Institutions are growing like trees, while men slumber. The traditionalist view can discern no logic that adequately comprehends political institutions, whether within a single tradition or among different democratic traditions. To say that politics is a practical art within the context of a tradition is to reject the possibility of logical institutional patterns or relations, since logic presupposes both the possibility and existence of rational behaviour, where the only consideration is that of ends and means, purposes and instruments. To say that government is a practical art in the context of a tradition is rather to assert the illogical but unique qualities of all political systems and of all democratic states. This does not mean that political knowledge can only be municipal rather than universal; it means that knowledge, if it is universal, must be practical, not rational.

1.3 LOCAL SELF-GOVERNMENT AND THE IDEA OF AUTONOMY AND DECENTRALIZATION

Nation states have both spatial and temporal dimensions; all of them are conditioned by geography as well as by history. No government can transact all public business in one locality or from one centre. The problem of how to relate functions and jurisdictions to area is both eternal and eternally difficult. In the context of a given tradition, particular administrative operations in each state project their own appropriate areas. Assuming a wide range of functions, two possibilities are suggested: the first, a Procrustean method of administration, is simply to organize and operate all programmes on a common area basis; the second possibility is to create as many governmental systems as there are programmes, each endowed with the requirements of its own area. The first proposal would either be unworkable, or would work with great technical difficulty and the second proposal is, of course absurd. The only seemingly effective solution and the one offered by Mill is to distinguish between functions of purely local interest and those of general interest. But this is a mere formal beginning, not really a solution at all; for the determination of a local as distinct from a general interest is no easy matter.

Interests are not physical things, but beliefs concerning things and both beliefs and things are subject to change and conditioned by an

Check Your Progress

1. Give one main distinction between local self-government and national government.
2. Which are the three main principles to define the idea of a local self-government?
3. Why did the whole idea of local self-government start?
4. What do Langrod's stipulating definitions of democracy and local government constitute?

NOTES

evolving political tradition. Practical politics is everywhere, for this reason, a refusal to face the facts. Furthermore, the very nature of modern government requires frequent decisions regarding the allocation of new operations. Is there some general principle upon which such allocations could be based? Can the division of power between local and central authorities be determined in a priori terms? This problem is technically identical with that encountered in federal states with respect to the distribution of legislative power. In Canada we are familiar with a number of interests which at confederation were generally considered to be local and provincial, but which have since come to be regarded as of national concern because of technological, economic, social or political changes. Ever since the invention of federalism, liberals have sought objective principles upon which to ground the division of legislative power. But the so-called inescapable federal principle of distributing functions, if it is to be of any use, must provide a method that will enable us to know rationally or absolutely what is a national, common, local, or particular matter. It cannot do so, of course and in fact there is no a priori principle which could determine which functions in any state are appropriately national and which appropriately local. In each federal state there are changing conventions about the distribution of functions; but a convention is not a principle.

The reason for this absence of principle is that physical division. The division of things is fundamentally and qualitatively different from a legislative division a division of political power. When it is a matter of things, objective standards and measures acceptable to most people can be devised. Things can be measured, weighed and divided in accordance with a stipulated or agreed ratio. But when the process of division entails not land, money, or other physical things, but the range of those individual or group actions which are or may become the objects of public policy, what precisely is divided? Thus, the only real basis for a unique, non-mathematical division of state power lies in the short-term mutual satisfaction of competing jurisdictions within the conventions of a traditional political framework. The question how far central and provincial power in local affairs should extend cannot be answered in an objective, logical fashion. Different degrees of local independence obtain within each democratic political tradition. The traditions of Switzerland and the US, for example, accord a wide measure of local freedom. In the former state there are strong local loyalties and much direct democracy; in the latter, particularly in the growing number of states with domestic rule, constitutional provisions, localities are sometimes free to choose a wide variety of institutional forms. In countries such as France and Britain, on the other hand, local institutions operate under the active surveillance of and in close cooperation with, the agents of central authority.

It does not, however, follow that, because there is no satisfactory general principle or standard from which the appropriate degree of local independence can be deduced, we are not permitted to make

NOTES

evaluations on the subject. The American system is excessively decentralized. In 174 big-city areas of the US, where more than 80 per cent of current growth in population is taking place, there were in 1959 more than 16,000 governmental units exercising the power to raise and spend public money. Any system of local government that proliferates in such a strong manner, with an average of 92 governments for each metropolitan concentration, can hardly be said to yield the advantages which ought to accompany local independence. But Americans appear to thrive in this tradition: politically speaking, they have always preferred their eggs scrambled. It is clear that all democratic states have experienced a rapid growth of governmental functions in recent years and that much of this growth has occurred centrally. But while local operations have everywhere declined in relative importance, they have grown substantially in absolute terms. The public demands resulting from industrialization and urban living have forced local authorities to extend or adjust traditional services and to provide a wide range of new services. Yet everywhere the growth of a stronger democracy has been accompanied by a sharp concentration of administrative space. As a consequence, the spatial requirements of public administration have tended to change much more rapidly than politically determined boundaries and there has resulted an institutional chaos of intergovernmental, ad hoc and special purpose agencies which, unless they are soon rationalized, may indeed destroy the foundations of local self-government.

In these complex and rapidly changing relations, local authorities in all countries have experienced a gradual erosion of their former independence and have been subject increasingly to severe financial dislocation. Many political scientists see in these trends the ultimate dissolution of local self-government, unless appropriate remedial action is taken. They argue either that functions should be so redistributed that local authorities can regain their former competence, including fiscal competence, over a narrow range of subjects designated as essentially local, in which case the small jurisdiction would remain the basic unit of grass root democracy; or they recommend an expansion of existing boundaries and the creation of larger territorial jurisdictions called regions, in which case the advantages assumed to inhere in communal face-to-face relations are lost. The former method contemplates an adjustment of function to structure and the latter method an adjustment of structure to function. Through the notion of federalism among groups of small units, some observers propose a *via media* which incorporates certain features of both techniques. In all democracies, however, the reform of local institutions appears to be quite inadequate in relation to the growing deterioration; and the emotional pull of certain liberal notions about local institutions and their necessary connection with democracy inhibits consistency in practical thought. This failure of thought is related to a failure in action which has, to a large extent and in most democracies, rendered present municipal systems obsolete.

NOTES

Many municipal reform programmes of different kinds-some sweeping and designed for rigorous imposition, some piecemeal and meant for gradual application have been put forward during the post-war years. The technical aspects of these diverse proposals can only be adequately judged in relation to the particular political tradition in whose context it emerges. But concerning the general process and strategy of local government reform in a democratic setting, a few comments are in order. The law of life is the law of change: social activities breed and transform social and political arrangements, notwithstanding ideological assertions against change. Yet stable political traditions are grounded on much more than just the diverse quests of men, despite ideological demands for change. The achieving of an acceptable balance between change and order involves a continuing tension between institutional effectiveness-interpreted as operational efficiency in relation to a matrix of communal skills, resources, demands and goals-and group images of institutional legitimacy attaching to conventional organs and procedures. Given the complex, changing, interdependent and potentially unstable conditions common to most democratic states and given the public measures required to secure social stability in such an environment, the condition of local self-government may be described as a crisis of effectiveness. Yet, with few exceptions, senior government policies and practices, influenced as they are by liberal beliefs, seem to suggest that effective reform is impossible or undemocratic because of the high rating of legitimacy accorded to local institutions.

Most studies show that interest is expressed largely in terms of individual problems and complaints and suggestions for the improvement of local facilities. In the words of one report, 'the representative function of local government is seen as secondary in everyday significance and interest, to the relationship between the people and the local officials who deal with their problems and administer the services.' In these matters the evidence can never be complete; but sufficient knowledge about community structure exists to indicate that frequently the locus of real power resides entirely outside the formally constituted local units of government and that non-participants as defined in the survey, normally constitute half of the sample. Large sections of the public do not appear to sense even the relevance of political behaviour. The claims advanced by liberal commentators today, as indeed by the entire school of philosophical partisans of the small community from Plato through Rousseau to Dewey, must be qualified by the fact that for two millennia communities that have been growing larger and more inclusive, 'Democracy must begin at home and its home is the neighbourly community.' There is no substitute for the vitality and depth of close and direct intercourse and attachment.

These assertions contain some condescending ideas: the Whig notion of natural order; the environmentalism of Locke; the doctrine of human perfectibility. But they conveniently neglect what Professor

NOTES

Friedrich, in referring to the American local scene, has called the 'hard-bitten machines run by county sheriffs and town assessment boards.' We know from ordinary observation that municipal politics has its darker, less idealistic side: fear, greed, partiality, vindictiveness and the ruthless application of sanctions to secure conformity and the microscopic view of the universe. But local politics, like all politics, is conflict as well as cooperation.

Professor Finer's hypothesis, discussed above, is intended to prove that there is a persistent psychological reaction to central administrative operations in the welfare state. Taking political behaviour as it is, rather than as perhaps it ought to be from the liberal standpoint, that reaction cannot be regarded as typical of the real world. Indeed, the democratic method is very largely a process through which the bulk of the population transfers communal responsibilities to governments and abides by public decisions. Our governments in general appear able to survive ineptitudes and minor disasters because we have, politically speaking, the gift of inattention. There can be an excess of lethargy in democratic politics; but in that event our problem is the reverse of that suggested by Finer. Freedom may be endangered much more by those who wish to obey than by those who desire to command. In spite of the growing volume of behavioural analysis, the truth is that psychological influences, as they relate to local government, are but dimly appreciated. It may be that in human groups as large as most existing local jurisdictions, adequate techniques of analysis can never be devised to yield the answers. How and to what extent, participation in local affairs satisfies the quest for status in different political traditions-how and to what extent, activity in local government promotes feelings of togetherness and belonging and influences individual and group motives-these and a host of related questions are presently wrapped in deep mystery. But one thing seems clear: notwithstanding the lack of behavioural knowledge, the traditional liberal answers to these questions are both incomplete and inadequate. According to liberal theory, local self-government is supposed to develop naturally because of the character of social relations which inhere in the small community. Local government must be strengthened in order to promote the very conditions which supposedly render its existence natural and necessary.

The reasons and justifications for local self-government are practical. In physical, fiscal, structural, functional and qualitative terms, local subordinate institutions are immensely varied. Yet in all states where they have evolved, they inhere and form part of that nation's political tradition. Their legal status varies widely; in some democracies they play a more important administrative role than in others; but in most states they are, or can be made, important practical adjuncts to government. They can be reformed and in some communities they are being reformed; but, depending on the tradition, it is probable that reformation will be halting and piecemeal. Their reform in no way prejudices democracy, either in its social or its political dimensions. It

seems possible that in some democracies, geographical and traditional forces permitting, local self-government may ultimately atrophy. But this would result from the shrinkage of space, permitting central decision-making and execution with adequate provision for local and regional consultation and participation. It would not result from the meandering of Rousseau's general will, or the realization of Langrod's principle of democratization. Liberalism fosters the misguided belief that, at some uncertain point, municipal reform must cause the loss of liberty.

A democracy must admittedly contrive institutions and methods that help to sustain an acceptable balance between order and change. Similarly, democratic forms and atmosphere must foster the impulse to keep government responsible. But the instruments of these goals are not universal and timeless; the forms and the objects of control evolve in accordance with the needs of each political tradition. Local self-government, as it exists in most industrial democracies today, can no longer be considered a major instrument of control. In an era of expanding communities, growing mass publics and intricate and rapidly changing technologies, mechanisms of democratic control must be located at the vital centre of power, of each national community. In a federal state, this implies dependence on an elaborate interaction in legal, political and administrative terms among intermediate and senior governments. It implies interaction among and within political parties, interest and pressure groups and the important media of opinion. It implies a growing reliance on judicial and quasi-judicial functions. Lastly, since politics is something much more than a mere functional interaction, this view implies the continuing influence of an ineffable democratic ethic in both parliamentary and social institutions. As a system of government, democracy entails slovenly institutional arrangements.

1.4 NEED AND RATIONALE FOR LOCAL SELF-GOVERNMENT

What justifies the existence of local self-government? Modern nations have moved steadily and heavily to highly centralized organisation in the first half of the last century. The idea of local self-government could be justified directly along the lines chosen by John Stuart Mill or de Tocqueville, who based their arguments upon a set of values going back to their belief in individual liberty; or with the logic used by Montesquieu, when he proceeded from his own private conviction of the value of tranquility to an argument for moderation in government and thence on to the final stage, the exclusion of governmental caprice and the arbitrary by instituting the separation of powers. Another is to consider the forces involved in the process of centralization and the stubborn counter forces maintaining local self-government, for that enables us to include the justifications which commend themselves to

NOTES

Check Your Progress

5. What does Professor Finer's hypothesis intend to prove?
6. What does the liberal theory say about the development of local self-government?
7. How can the costs of production and distribution in gas supply, water supply, transport, libraries and many other services be reduced?

NOTES

a diversity of groups within the nation along with material developments which are not justifications in themselves, but which have been influential.

One of the most remarkable phenomena is the development of a nation-wide community of standards or a commonly entertained social conscience. In other words, gradually large numbers of people, spread throughout the modern states, have developed a conviction that there is no justification for any part of the national territory to fall below a certain minimum standard of governmental service and that if it does some central agency ought to intervene and make good the deficiency. For example, this can be appreciated in American development most clearly in regard to public health: it has come to be thought intolerable, an injustice to the local inhabitants and a danger to their immediate and distant neighbors that the health standards of a locality should fall below what scientific studies have indicated to be appropriate. This feeling has resulted in a number of federal and state connections between themselves and the smaller units of government. Again, it has come to be regarded as monstrous that simply by reason of the chance of being born or resident in a particularly backward area of the US, or of UK for that matter, a child shall suffer serious disadvantages in the possibilities of his education, development, entry into business, or a profession. The report of the advisory committee on education founds its recommendations of considerable federal assistance and guidance of local developments upon this sense of equity as well, of course, as upon such prudential considerations as the number of people who move away from an area with poor educational opportunities to some other. The index of popular mobility is a finger pointed toward the educational responsibilities of the national unit which embraces all.

It is unnecessary to labor the importance of this factor any further, though it would be possible to reveal its strength and value by taking such further subjects of public administration as police, social security, employment placement and others. Several elements of this factor, however, may be listed, though this is no occasion for their analysis. There is the element of financial incapacity of some areas compared with others, whereas all Americans are Americans, rich or poor and all Englishmen are Englishmen, poor or rich. There is another element—the growing mobility of the population due to the extension of and fall in the costs of transportation. There are the more rapid means of disseminating information.

The effect of modern transport and communications has virtually been to bring all frontiers into the centre. The problem of government is dual: to appreciate vividly and in the highest degree of detail and subtlety the factors requiring thought or action and then to be able as promptly as the situation demands to make the completely realistic response. In the absence of communications these conditions can be fulfilled only by the man on the physical spot. Mr. Churchill said on one occasion, when discussing the question of colonial government, that it ought to

be entrusted to the man on the spot. But in contemporary conditions, especially within a single territorial unbroken area, the great difficulty is to demonstrate whether the spot is at the centre or on the circumference. Together with this space-time relationship there is an auxiliary of basic importance which has long awaited history and evaluation-the development and utilization of uniform professional records.

The centre would be unable to fulfill its role of realistic apprehension, then judgment, then command or counsel, unless it and the circumference were talking the same language. The development in the nineteenth century of a language of administration, of statistical forms, of unit analysis and the rest, has a sociological value of vast import from the standpoint of centralization and of advantage to good local government. Thirdly, technological analysis and minute administrative inquiry have both contributed to showing how in many respects the full economy of certain governmental services is dependent upon a large area of administration, usually with a higher integration through some national agency. For example, the development of electric light and power will yield its fullest economy only if a large enough area is chosen in which the density and diversity of demand are such as to enable the capital equipment to be in use, so far as possible, at its peak during the whole day and throughout the year. Costs of production and distribution in gas supply, water supply, transport, libraries and many other services can be reduced by establishing administration on the scale indicated by the analysis of costs, dependent upon the analysis of the technological factors involved in the service. Of course, if people did not care for cheapness, if they did not wish for the benefit to be derived from following nature, then this factor would not be of importance. But one justification of following nature and therefore producing centralized administration is the economic well-being of man and, therefore, since he will have more leisure and presumably better health, his ability to turn toward noble pursuits and artistic diversions.

Finally, there are considerations of economy slightly differentiated from the factor just referred to. There are economies in overhead costs in large-scale organization, central purchasing, the planned relationship of parallel government activities and their coordinated development in relation to a sense of future possibilities as taught by scientific analysis and speculation on modern problems. It would be possible to push this description much further, but for the purpose of exposition of the forces and justification for local self-government we must hope that the discussion is already adequate-remembering the four factors involved: the nationwide community of standards, the effect of the space-time relationship and a common language of administration, the consequences of following the indications of the technological nature of some modern administrative services and, finally, what may be called the economies of scale.

Once it is conceded that the individual is of any worth, it is the merest step to transfer this solicitude to the locality, which is a group of

NOTES

NOTES

such individuals. For an act of government, therefore, to be appropriate to the situation, knowledge of the locality is required. It is quite conceivable that such knowledge, deep intimate knowledge, might be obtained by the statistics and reports which are instrumental to centralization, either by themselves, or supplemented by a large number of officials of the central government appointed to serve it in the localities. But there are great difficulties involved in recourse to such expedients. For officials really to grasp the special conditions of a local area in all their light and shade, it would be necessary to have very many and for them to be in practically permanent residence. What this would mean in terms of a great administrative establishment looking centre ward may be imagined by estimating the numbers of locally elected councilors, commissioners and mayors in the municipalities of all sizes in the United States who ought to be replaced by centrally appointed public servants under this hypothesis. The student of public administration today sighs sufficiently over his tough dilemmas to wish to put off the day of their increased difficulty by reason of the magnitude of the personnel. Consider merely the problems involved in achieving simultaneously initiative and independence of mind, together with due responsibility to the machinery of controls; consider the grievous problems involved in rating of comparative efficiency among public employees.

However, more is involved. There is the whole relationship between perceptiveness in government and feeling about the results. Whereas, if all other problems were solved, a new great civil service might be able to apprehend and report back the external verities to its central employers, it still would not have solved the problem implied by a feeling of responsibility for an individual interest in the results. The problem of the identification of the professional servant's interest with the citizen's interest (a prime condition of good government) would by no means have been solved and perhaps its solution may always elude us. There must be something vital in the desire of individuals and groups themselves to represent the facts before the seat of authority.

A residential area begins to lose tenants; factories move in; more tenants go; school accommodation becomes excessive for the number of children; it is necessary that one school out of the five shall be dropped. Which shall it be? It will be seen that much of the material for a decision is available in statistical form. But what about the distance that some children will have to walk, knowledge of the weather in the district, knowledge of the dangerous roads which have to be crossed and, in a working class district, the hour when parents will be free from work to come and fetch young children home? Again, consider the work of after-care committees in guiding youngsters vocationally and then keeping an eye on their progress for two or three years until they are well settled in their work and habits. Consider, again, the decision regarding the number of police required in a given area and the estimation of how far and to what degree it may be called a bad area – the location of the saloons, the tradition of gang fights and all the rest, material to determine

this question. Take again the estimation of a very difficult standard what is a slum area; where exactly does it end; whose property ought to be demolished; whose should be bought to make room for the new houses? When a housing estate is to be set up it is the local people who will best be able to say what is the maximum distance it should be from their work and where schools, community centres and the public utilities sub offices should be placed.

That is not all. There are many personal relationships, estimates of quality, for example, in the selection of local teachers, librarians, social workers, utilities salesmen, tax officials and others, which are very difficult to communicate in writing. These must be appreciated on the spot and can only be appreciated by those on the spot. When a committee is confronted by four candidates for the post of teacher in the local infants' school, by what process could a local officer of a central educational body possibly appreciate and record for central comprehension an opinion on qualifications-that is to say, personality, character and the rest which are so important in this service?

Even if this first difficulty of securing local knowledge subtle enough to satisfy the situation were overcome, we should then arrive at a much more difficult matter, namely, how to secure that initiative, that creativeness, that desire to contrive expedients which comes only from those who feel a responsibility and a personal interest in the results. The validity of this point can be seen very well by a few examples and they illustrate magnificently the difference of attitude between the central and sometimes even the local professional administrator and the citizen. Let us consider the significance of some examples. The educational curriculum for elementary schools throughout a country might be established in its essentials by the central authority whose financial aid has made a national system of minimum standards possible. And yet, where there is a large possibility of a fair proportion of the children living a rural existence, or where in an urban situation an area tends to specialize in some industry (for example, the manufacture of cutlery or the process of dyeing), the local parents and teachers, affected by the economic consequences to their own family and to the whole neighborhood, strongly press for freedom to vary the curriculum appropriately. The professional educator, especially when he is not by birth, long residence or association, connected with the locality, does not think in this way, even though it has been part of his professional training that he shall vary what is to be taught according to the interests of those who are taught. The consequences are not as deep and cannot possibly be fully the same to him as they are to the family groups and industrial or agricultural interests of the neighborhood. He cannot live their lives, even if he wants to.

An interesting illustration of the importance of feeling in administration, tending to the justification of local self-government, is the history of the provision of air-raid shelters in UK during the Second World War. There is no doubt that the central government and its

NOTES

NOTES

technical advisory committees did a very good job in planning the general system of dispersal of the population, partly implemented through the distribution at cost or free of charge of steel Anderson shelters. But they did not foresee, with sufficient intimate anxiety about the consequences, the problems that would be raised when hundreds of people got together in community shelters, whether these were provided by the local authorities or improvised in the subways. They did not realize to begin with that many people would like to be together while under the ordeal of bombardment, simply because being in company is an alleviation of terror.

They did not, therefore, feel acutely enough about the shelters as permanent dormitories. At the same time, they believed that if there were deep shelters there would be a panic-stricken rush of the population to the shelters at the moment the sirens began to wail. They did not penetrate into the possibility of masses of people making a regular orderly routine of getting to the shelters at a certain time of the day. It was only the fitting-in of an air-raid shelter routine, invented by the people themselves, into the whole framework of family life and related to the habits of the children, their school attendance, the time the husband came home from work, the time for the preparation of the family meals and shopping that made the situation supportable. And then, when air-raid shelter life became regular, it was only the outcry of the people directly concerned that produced the spontaneous election of shelter marshals and shelter committees to put before the central and local officials a program to meet the many problems involved—for example, what to do with the sheltered who habitually bored other people or the sheltered whose vocal efforts were good for himself but annoying, for instance, to the children whose mother was anxious to get them to sleep. Beyond that, also, there were the problems connected with health, feeding, repeated clamor for a sleeping berth and so on.

The scrutiny of above examples reveals the basic force making for decentralization and justifying it: the impossibility of one person fully understanding and being affected by what another person feels to the extent of being spurred on to invention, search, adjustment, to meet the situation by trial and error. All adjustment is trouble and means effort and sacrifice; it can only be expected in the measure in which its necessity is fully felt, in its own character and not in theoretical surmise, however benevolent an official's intentions. Beyond this there is the adjustment of government to circumstances—family, personal, industrial, topographical and others—which will make the solution the most convenient, congenial and least abrasive and presumably most financially supportable.

Let us once more emphasize the theme of knowing where the shoe pinches: the importance of the aphorism does not lie in the word knowing but in the word pinches. The central official may apprehend that the shoe pinches, but he may not feel it giving him self-declaratory

agony all day; and he will not be the one to suffer from corns. The idea applies not merely to the services of government that may be onerous but also to those that may give pleasure. Connected with the factor of an interest in the consequences of administration is the feeling, when it is permitted, of responsibility for the results. A feeling of responsibility nourishes an impulse to authority. Authority is the great developer of character. It is part of the composition of fully alive and evolving characters that they shall have authority, since this is nothing but the freedom to invent, contrive and devise. The exercise of authority ministers to the positive self respect and sense of worth of the individual and though a government cannot in every respect make provision for this out of proportion to other things, government in democratic countries nevertheless does and ought on pain of its own dissolution or inner rot to make such provision.

There is a vast amount of leisure available for self-government if the opportunity is offered. By its nature it permits only of spare-time activity. If some governmental affairs are returned or devolved to local units, experience shows that it is abundantly possible to fit in the work of councils and committees so as to enlist the energies of citizens in the times suitable to them. A great deal of time and energy which would otherwise be wasted is thus utilized. This point is connected with another, which is a continual theme in the direct and inferential argument relating to local self-government, that there ought to be local opportunities of political education. One has to be discriminating about this argument, since it has been used frequently to secure an undue control of local government against the claims of larger areas or of central administration where the need is very clear. But there is no doubt that if we wish to maintain democracy at the centre, it is essential to retain a large measure of self-government at the extremities. It would be idle to pretend that experience of local affairs will produce great presidents or prime ministers to whom all the secrets of a vast central planned administration and of contemporary international affairs will be yielded. There are some things to be learned in local government of great value to the democratic purpose and these are a recognition that other people may be right although they disagree with us, that other people are not necessarily lunatics because they obstinately hold opinions not identical with our own, that there is a financial price in terms of the budget to pay for all rights established by government, that public parsimony may be the worst economy and that proper procedures are necessary to secure justice at once to the majority and the various minorities living in the same community.

Yet one must be aware, of course, of the rank outgrowths that do sometimes emerge from such justifications-the weeds may well by their excessive growth frustrate the forces making for administration by central coordination of command. Finally, a strong justification of and force making for local self-government, in England at any rate, has been the preservation throughout the country of a powerful resistance

NOTES

NOTES

to excessive authority in the hands of the central government. Distrust of excessive power and the consequent powerlessness of the ordinary individual or the small group have been influences against centralization. When we consider the large body of people now concerned in English local government, it can be seen what a powerful counterweight there is to the possibilities of arbitrary and despotic behavior on the part of both central politicians and central officials.

Thus, despite the compelling power of the great technological and social forces making for centralization, there are four considerations which identify the continued existence in some measure of local self-government- the impossibility for a central authority to discover the local facts in all their significance of minuteness and diversity; the impossibility for the central professional officials to appreciate the feeling of pleasure and pain issuing from a local situation; the importance of ministering to individual originality and sense of free authority, coupled with the opportunity of political education; the maintenance of a local counterweight to centralized power which might tend to absoluteness. But it will be seen that we have said some measure of local self-government. All our problems in public administration are problems of elation and proportion (Finer 1943: 58).

What are the grounds of ideology that are primary to the developments and recurring transformation of local government that have occurred in a large number of countries in the decades that have gone by? The extended and continuous reorganisation of local government is equivalent to a restructuring the relations between governments within a society. Transformation of local authorities - pertaining to their structure, operations and their interior structure is not just an administrative reshaping but a genuine political reshuffling of the links between different hierarchies of government. An outcome of this belief is that the reforms are a reaction to the growth of the public sphere and to the fluctuating nature of government's involvement in the society. They are a utility of the significantly augmented role of the state, of its extent and its incidence. It is the large scale of programs and public involvement that is known with the growth of the welfare state or interventionist state that has provided momentum to the streamlining of local government institutions. This has mainly been the case in those countries, such as the Scandinavian countries, where local government was, at an early stage, converted into a major medium for the execution of public programs of the welfare state. It is important to make sure that this kind of a trend has not been an outcome of concerted action, rather, it replicates the disorderly execution of policies in various sectors of public activity, like education, social welfare and public health services.

Little by little, the policies brought changes to the association between local authorities and central government. No matter how persuasive it may be, it is not possible to analyse this development through the means of a dichotomy of decentralization and centralization. There is more to it. For elaborating on this conflict, a large number of

questions have to be answered, these questions are related to the changing character of the modern local government, to the intricate association that has developed between the state and the localities and between centre and the fringes within the welfare state. What is the content of the principles that favour the institution in such a context and how restricted are they in practice? What is the definition of the role of local government for adjusting and altering themselves to the intricacies of the relations between the central and the local governments in the contemporary state? Such are a few of the queries that need to be addressed in this case. To begin with, we present an outline of the values that are intrinsic to the concept of local self-government. A discussion of considerations and possibilities will follow this. This is the discussion on which central steering is dependent, in the contemporary democratic state.

Ultimately, the question of the need for a new concept of local government will come up. Why local self-government? The argument on the participation of the local establishments and on the liaison between the centre and localities has been stained by an extra simple edition of the perception of local self-government. The plain concurrence of autonomy and essential intervention, of decentralization versus centralization, has concealed the multiple sources of local self-government. There is wide conformity in the literature of political science that there is no 'theory of local self-government.' The perception is too spread out. Three series of values, nevertheless, are usually supposed to be necessary for it: liberty or autonomy; democracy or participation and efficiency. There is a possibility of these values to be disagreeing partners in some cases, but all open-handedly accepted by the concept of local self-government. The fundamental base of contemporary local government, that is, local institutions with a small amount of prudence in communal affairs and at least some fundamentals of democratically elected political bodies was part of the libertarian trends in the first half of the nineteenth century. Autonomy for the local communities to grow in accordance with their own likes and dislikes was ideologically a strong feature in the establishment of local government systems in a large number of European nations. It was believed that local self-government is one of the means of expressing freedom in the society.

The formation of local self-government in the earlier half of the last century, in Scandinavian as well as other countries, was a purposeful effort to restrict the intrusion of central government in the matters of local communities. Without a doubt, it was initially a clear expression of the liberal or liberalistic notion of the limited and inactive state. However, there existed no doubt, even in the remotest sense, of putting an end to the control of central authorities. Rather, when the local self-government was introduced, it meant the introduction of local bodies in the form of legal entities. The liberty and autonomy in this direction, stressed that they were never meant to create hindrances in the intrusion of the national government in local issues. They were only intended to create

NOTES

NOTES

hindrances against arbitrary interventions by the central authorities. Local self-government never went crossed those limits. Any additional thing would actually be instrumental in going beyond its character of being a feature of the national government apparatus.

If the value of local autonomy or municipal freedom is scrutinized are close quarters, it can also be seen that, without considering legal principles, content has undergone modifications, over a period of time. This modification may be regarded as a shift from a concept of freedom from something that is related to communities and districts that are not interfered with by central civil servants, to question their freedom or to do something that has been put into action for resolving communal issues. Hence, from having a negative definition originally, the local autonomy became a mechanism for the recognition of communal interests, as well as a resource to put other values into practice. It appears to be contradictory that concurrently, accompanied by a more comprehensive and optimistic concept of local autonomy, there should build up an increased interest on the part of the central government, to involve itself in many different and new domains of activity in the localities. In fact, both the inclinations were the provisional expressions initially and going further, they added more energy for the development and growth of public domain in society. In legal terms, it is likely for the local authorities to still have the right to consider and act on every issue that is related to their communities. Nevertheless, with the increase in the activity of the state as well as local authorities, there was an increase in the principles of the local autonomy, which became part of the legal rhetoric that was adjacent to the institution, rather than part of its reality.

As a result of the more and more extended national legislation in an array of different spheres, the local government got increasingly entangled with the sphere of influence of the central government. There will be an augmentation of this point again in connection with the changing character of central steering, but the point might be mentioned already at this stage: the more comprehensive the field of local government, the more delimited will be its autonomous area of action. This is the contradiction of the local government. It is a consequence of the safeguarding of autonomy as a foremost value of the institution and the organizational and political facts of the modern state. In addition to autonomy, local self-government exemplifies another key value, i.e., democratic participation. Without a doubt, local self-government and popular participation seem to be so closely linked that they give an appearance of being almost the same. The principle of popular self-government, to quote from a basic document that revised the Norwegian local government in the previous century, has probably been the most stable legitimate platform for the institution over a period of time. Districts and counties, or the similar local units, exist because it is believed that they are major channels for accessing and sustaining the participation of citizens in matters of the public. This underlying principle is even more obvious when a variety of aspects of the principle are spelt out.

NOTES

The democratic principle in local government means that active participation of the citizens in local matters is both, an achievement within itself and it is also instrumental in strengthening democracy within the society, in a major way. The initial involvement represents a genuine reason for influencing the decisions related to daily issues; it reduces the distance between the rulers and the ruled. Secondly, it gives rise to a possibility of political education. Dynamic partaking in local affairs is likely to be regarded as and has already been historically considered as the most important training ground for democracy. By taking part in the administration of districts and counties, in a direct or indirect way, the citizens can get to know public issues. As it can be debated, they turn more receptive to the need for establishing priorities and for coming upon compromises between various rightful interests. Ultimately, there is a supposition in this debate of a link between local involvement and the feeling of unity within the community. In addition to autonomy and participation, the notion of local self- government exemplifies a third value, i.e., efficiency.

It has been fundamentally argued that for the maintenance and consolidation of the institution it is inevitable that the elected local bodies provide the most efficient means of taking care of the discrepancies between needs and demands of the community, as along with the production of public benefits. There are three logical principles of this argument. First, as they represent the local community, elected and politically responsible bodies at the local platform have, to a greater extent than de-concentrated central administrative agencies, the significant knowledge of dealing with local matters and to convert requirements into political action. Second, according to the efficiency argument, local government is more suited to promote the coordination of public actions than other probable options. Third, being a versatile unit of the government, it has a larger prospective for linking different salient issues in a community than dedicated state organs.

This characteristic may not be adequate to respond to a trend toward departmentalization of public activity, but it is often regarded as one of the major rudiments for delimiting the power of this trend. Efficiency in this circumstance also refers to the potential of local government to achieve service production that is politically accustomed to the community. The professional skill and technocratic inclination inherent for accomplishing any public task is likely, thus, to find their counterweight in local political layman ship that characterizes the institution, at least in terms of theory. It might be claimed and it is often claimed, that the facts related to local government barely match up with the efficiency ideal. Local service production may not be in conformity with the demands of noteworthy groups and it may be remotely capable of meeting the needs of the community. Effectiveness, autonomy and local participation are the standards. But they are significant ideals in the absence of which the purpose and very legitimacy of the institution of local government will have to be questioned. When

NOTES

these features are combined, they form the ideological base of local government.

Certainly, it is not always that the values may match with the reality. In the real sense, there are apprehensions pertaining to the degree of actual involvement of the local government in a number of instances and reluctance to believe it to be as efficient as its ideal model assumes it to be. In addition, it may be settled that the extent of real autonomous action is limited from a modern perspective. However, to reject the value of freedom from accidental central intervention, the value of dynamic public involvement and the value of proficient production of social services, as being the base of local government, is in the actual sense directed at discarding the very legitimacy of the institution. The key issue that is likely to rise in any practical reform of the institution and of local self-government is that the competition of these values is with other considerations. The situation for local government in a large number of advanced democracies is apparently so complex and saturated with contradictions, not only because ideals might not correspond to the political and administrative daily life routines, but it is also due to the fact that in a developed welfare state these values have to rival other legitimate requirements, that are embedded in national considerations.

1.5 PROBLEMS OF DECENTRALIZATION

Local self-government, as it has already been discussed earlier, is a relative concept. As soon as one begins to scrutinize it in detail, one comes to a conclusion that local government depends on a broader governmental structure and covers several preconditions. Nevertheless, autonomous local government might formally fall in one or more levels of institution which subordinate it. All democratic states, unitary or federal, districts and counties (or the likes) are part of a bigger, more inclusive political and administrative body. A result of this simple inspection is the question, what is the scope of central steering and what is its lawful basis? This issue is not simple and this discussion will be limited to the most important ideological elements that underlie the different forms of central steering. To begin with, the most obvious and historically the most significant reason for central steering of local authorities in democratic societies is to sustain the rule of law. The main underlying principle for intervention or threats of interventions, by the central government is to make sure that civic rights are not in any way influenced by local authorities. It may not always have been the case where the state has vigorously chased this goal, nor has it always been successful in this task. But national democratic governments had always been responsible for making sure that the rights of the citizens were not denied or obstructed by any governmental body, central or local.

The legal control on the activities of the local government, in a few of the cases, even their discretion, was originally based on a liberal and

laissez-faire ideology. Nonetheless, as changes took place in the dominant political ideologies, this control got directed towards the monitoring of civic and social rights. Far from being a residual of the past, the legal outline by central organs of local acts has, in its actual sense, a stronger relevance. Mainly because of the growth of social legislation, the activity of creating new social rights for implementation by districts and counties, the local government in a large number of countries has come across new legal challenges. This is the reason that in spite of the fervent debates by local authorities against such a control, largely based on the view that modern local authorities are saddled with the necessary expertise and professionalism to guarantee citizens' rights in any sphere, more than a vestige of legal control functions as a basic part of central steering.

A second major consideration that underlies central steering is the requirement that the efficiency of local authorities' production of services should be high. The money of the public should not be wasted. Evidently, this is a different kind of efficiency, compared to the one that is indicated as a basic value of local self-government; it may even be considered that the two forms of efficiency are in conflict with each other. Efficiency, terms of a best possible correlation between precise needs and actual benefits, is not the cheapest way of running public affairs in most of the cases. Nevertheless, it is a highly legitimate goal of the central government to make sure that the expense incurred in public service production is not more than that which is reasonably required or than what might be attained by restructuring the organization. This is most likely to cause a dilemma. The state's concern for being cost-efficient is likely to be achieved in a few of the cases (for example, in the case of small local units, with unprofessional administration) by a reshuffling of the competencies between the different levels.

A more or less simplistic reference to the economics of scale may lead to the view that larger the perimeter of specific services, cheaper will be their production. There are chances for this logic to gradually deprive local authorities of their functions and their competencies. This is the reason for continuously establishing a rational balance between the legitimate requirement of a cost-benefit efficiency and the equally legitimate need to retain local units of more than token or symbolic significance. Central steering also replicates a third requirement, which has become chiefly dominant in the last decades: a more eloquent demand for redeployment in the society. National governments cannot remain unresponsive to the struggle for equal access for public benefits in different regions and districts. Specifically where the welfare state has grown, this consideration has become the major principle for state action in terms of local government. Pertaining to this, there is a belief that the local government has played a crucial role in framing the production and the distribution of public benefits and unavoidable burdens, aimed at equalization, throughout the society.

NOTES

NOTES

The rise of the idea of welfare state in the mid twentieth century has gradually modified the basic type of the relationship between local authorities and central government. It has led to a rising strain on the conventional structure of the local government, which is both, in terms of its internal aspects and in terms of inter-governmental relations. Certainly, it would be barely possible to identify the large extent of intrusions by the central government in various fields of local activity, like education and social affairs, without appreciating the strength of this fundamental consideration. Time and again, however, these intrusions have been criticized as a threat to the free unfolding of local government, in agreement with the perfect conception of local autonomy.

Finally, it might be easy to detect a fourth category of considerations sourcing the intervention of central government in the affairs of local authorities: the need on the part of the national government to deal with macroeconomic factors. Considering the size of the public sector in the majority of modern democratic states and the local share of it, as well as the integration of functions and finances between the various levels of government, it can be ensured that this task is of utmost significance. The requirement for overall financial steering is always a matter of concern for a government and the local authorities will always be one of its major targets with respect to this. Actually speaking, it would not be responsible if the central government is not attentive to the possible consequences for the national economy of disconnected economic decisions by a large number of autonomous or semi-autonomous administrative units. None of the existing governments are in a position to take such a stand and certainly not a democratic government that administers a public sector, fluctuating between 45 and 55 per cent of the gross national product. Furthermore, a more highlighted feature of this development has been the rise in local expenses. Accordingly, any effort directed at steering the national economy, as well as to implement any policy for controlling the cumulative demand and consumer's ability to spend, requires central intervention in local finances. The growing complication of public activity, its penetration in the private sphere and its increasing share of national product, have drawn attention to the need to manoeuvre public finance and to monitor the economy. In the modern state and in a fully fledged welfare state in particular, sub national units have become the prime causes for the expansion of public activity.

Noticeably, if one wants to control the tide and flow of public finance in such conditions, local government is the most likely candidate for regulation. As a result, there is a logical as well as an empirical connection between the efforts to steer the economy and the ever-present reorganization of the financial relations between the central and local governments. It is evident from these contemplations that any debate on the nature and role of local self-government in a contemporary context has to face the national requirements pertaining to the rule of law, cost-efficiency, redistribution and macroeconomic steering. Similar

to the case of the values intrinsic to the concept of local self-government, their significance may have changed over a period of time. However, none of them can be discarded as immaterial or as having less importance than the values imbued in local self-government itself. All of them are part of the legitimacy of the political system. Discarding their significance, either theoretically or practically, would mean rejection of the need for central steering, at a very high price for social and economic redistribution in society.

Even the most aggressive supporters of decentralization, specifically the unions of local authorities in different countries, would be hesitant in taking such a stand. In view of this, the challenge that contemporary local government has repeatedly had to face the following: to settle the values intrinsic in the institution-participation, efficiency and a minimum of discretionary power-with the equally important values of macro economic steering, equalization of benefits and burdens, reasonably cost-efficient production and, of course, the rule of law. It is not easy to escape this dilemma. The different reforms in recent years in a large number of Western democracies might be regarded as an incessant striving to attain a new and more stable balance between these highly legitimate values. It is an misapprehension to believe that local government can have the same content in a situation where the public sphere covers around 40-50 per cent of society's total resources, in comparison to a situation where it comes upto a mere 10 per cent, neither is it logical to conceive the ideological content of local government to have remained untouched by the social and political development in society.

The aim of any reform in this area cannot be only to shape the ideals of the past for rhetorical purposes. The objective should be to modernize the values of the institution, which gives them a content that is in synchronization with the contemporary volume of public activity. Some lassitude and ambiguity may be detected about the means of solutions. Nevertheless, considering the different reforms that have taken place or are currently under discussion, two different concepts may be perceived of the models of the relation between central and local governments. One viewpoint might be termed as the autonomous model of local government, mainly reflecting the traditional and liberal view of this relationship. Its essence is a description of the two spheres of government as clearly demarcated, where the actions of local authorities remain, as much as possible, unimpeded by the central organs. Irrespective of the volume of the municipal sphere, the work of the state, in terms of the ideological perspective, is only to supervise the activities of the local authorities, without entering their domain. In its most pure form, such a perspective is a filtrate of the past, but in a more diluted form, still reiterating that for the levels of the government to be kept distinct; it remains a powerful element surrounding the institution of local government in many countries. Certainly, it has been the very pre-assumption of the perpetual local government in crisis

NOTES

NOTES

situation to be found in so many advanced democracies. It seems also to have acquired a renewed currency in the concept of subsidiary as a principle for the (future) divisions of functions within the EU (European Union).

A second and competing viewpoint defines the proper relation between local and central government, in a different way. One might call it the integration model. It brings out the integration between the two fields of government. It is required for them to continuously adjust to the needs of particular circumstances. According to this outlook, the characteristic feature of modern local authorities is that they no longer only govern functions of exclusive concern to the citizens of the single municipalities or counties; instead, they are professed as participants in large spheres of public activity, having been given increasingly more functions. Both viewpoints have the tendency to mould the reorganization process by favouring certain types of reforms over others. The second viewpoint, nevertheless, seems more tailored for the intricacies of central-local relations in a present-day framework. A constructive approach to the challenge that confronts the democratic local government would look like an effort to project that national intervention in municipal and county affairs does not necessarily aim at expressing aimless central tendencies or senseless standardization and crude bureaucratic expansionism.

It is far more productive and more practical to consider it as an expression of the interweaving of various administrative levels and as an evidence of their close cooperation and characteristic of the welfare state. The principle of local democratic government is a term adopted in a recent proposal for a new Norwegian Local Governmental Act, as an alternative to local self-government, has to find its place in relation to national democratic government. The apparent inconsistency between central steering and local government might be increased by three reform strategies. One possible approach is to reinforce the trend, manifest in many countries, toward limiting the detailed control of local government acts that are in favour of an overall steering. This means that steering refers to the general framework for local decisions instead of referring to the specific content of decisions. This involves limiting the traditional control of the legality of local government acts (like, for example, the French tutelle) and also redefining the regulations that are still in force for approving the local budgetary and financial acts.

In addition, this strategy will also include a systematic revision of the so-called special legislation in some of the countries. These special legislations are almost complete definitions of the functions and capabilities of local authorities. Nevertheless, it is very difficult to achieve a type of revision which is acceptable to all interested parties. The interests related to organization and profession in various spheres, for instance, the social and the educational sectors, are too strongly ingrained to be rapidly and peacefully dislodged. Another form of strategy is to make the democratic character of local government stronger by

increasing the people's participation as well as by revitalizing the political steering of the localities. There is a whole array of questions which come to existence in such a strategy; these pertain to the relation between politics and administration, between those who lead and those who follow them and between the various political groups represented in local organs. Again, a number of compromises are required between different legitimate concerns. However, on the whole, the strategy has a clear aim: to express the local community in the real form of the local government and also in the form of an instrument to politically implement and adapt to the localities of national policies.

Although the overall aim of public activity will continue to be the sphere of national government, the means that are used would be more clearly defined as the functions of local authorities. Initially, the local government should play a role in the form of a prominent body for countering the division of the public policy into sectors. This can be done by fuelling political steering with added vigour and responsibility. This may not exactly be the local self-government visualized in the conventional style, but it may be a mode of strengthening the institution in the contemporary circumstances and evading the sterile inconsistency between centralization and decentralization. In the end, it may not be worthwhile to look for one single approach or one specific strategy for reassessing the activity of the contemporary local government. All efforts that are directed at reshuffling the institution of nearly every democratic society and the never-ending process of reform make the fact evident that there will always be several ideological perspectives and different strategies that contend with each other in the process of reorganizing a local government. This explains the reason for the failure of the centralization-decentralization dichotomy. The pluralism of local government in superior forms of democracies is very complicated and variegated, such that it cannot be adjusted in such a simple formula. But then, one of the most important operations of a democracy is to give space to different values, by continuously working hard to attain a rational balance between them.

NOTES

1.6 LOCAL SELF-GOVERNMENT IN UK, USA AND FRANCE

In this section we are going to study in brief the various forms of local government prevalent in traditional liberal democracies where the modern idea of local self-government was born. In this section, we are going to look briefly about the basic local self-government institutions in UK, USA and France.

1.6.1 Local Government in England

The British parliament is known as the origin of all the parliaments. In the case of local self-government too, the British model is unique and one of the oldest. UK has three different systems of local government

NOTES

in England, Scotland and Wales. Here we are only going to study the system in England. It is a unitary form of government in which all the powers enjoyed by the local bodies are given to them by the parliament and the government of UK. Unlike decentralized political systems like India, England does not have local bodies which have devolved powers or local assemblies.

This current arrangement of local government in England is the result of a gradual and consistent process of reforms initiated by the government of UK. The origin of these incremental measures is in the municipal reform of the 19th century. During the 20th century, the structure of local government was further reformed and rationalized, with local government areas becoming fewer and larger; and the functions of local councils amended. The way local authorities are funded has also been subject to periodic and significant reform.

According to the latest reforms in 1999 England has been subdivided into nine regions. London being the largest local self-government body has an elected assembly and mayor. Rest of the eight regions does not have these institutions. Their roles are also not as comprehensive as that of London. Most of these eight regions have unelected boards and regional development agencies. Except for London, every other region in England has divided works in different local bodies. All these local bodies can be divided into two broader categories. In some areas there is a county council responsible for services such as education, waste management and strategic planning within a county, with several district councils responsible for services such as housing, waste collection and local planning. These councils are elected in separate elections. Some areas have only one level of local government and these are dubbed unitary authorities. The City of London is a *sui generis* (a Latin term that means having special characteristics) authority. There are two-tier counties, metropolitan districts, London boroughs and unitary authorities in England.

Every district in England is divided into several civil parishes. Typical activities undertaken by a parish council include allotments of licenses and permissions for vending and various other activities, management of public parks, public clocks etc. They are also consulted in planning for development of the area. Councils for various districts, counties and unitaries are known as principal local authorities in order to differentiate them in their legal status from parish and town councils. These latter councils are not uniform in their existence. Local councils do not exist in most of the metropolitan areas. There are no clear cut rules establishing the process and qualifications for the establishment of Parish in any part of England. It is not clear that whether only urban areas should have these parishes or rural areas too can have them. For example, in some districts the rural area is in the form of parishes and the urban area is not - such as the Borough of Hinckley and Bosworth, where the town of Hinckley is not in the form of parishes and has no local councils, while the countryside around the town is divided

into parishes. In others, there is a more complex mixture, as in the case of the Borough of Kettering, where small towns of Burton Latimer, Desborough and Rothwell are divided into parishes, while Kettering town itself is not. In addition, among the rural parishes, two of them share a joint parish council and two have no council but are governed by an annual parish meeting.

Local government councils do not have separate executive and legislative organs. Both these functions are vested in the council itself. The council creates its committees or subcommittees in order to fulfill a particular duty. The leader of the council is by and large an honorary job. His main job is to chair important committees meetings. Before the Local Government and Housing Act, 1989, all committees were created and dominated by the ruling parties. According to the section 15 of the 1989 act all committees created by the councils must reflect the actual strength of the political parties. This was a big reform initiated by the British parliament in the Municipal Corporations Act of 1835. The parliament, in 2000, passed a new Local Government Act. This act required councils to move to an executive-based system, either with the council leader and a cabinet acting as an executive authority, or with a directly elected mayor – either with a mayor and cabinet drawn from the councilors – or a mayor and council manager. However, smaller district councils, which have a population of less than 85,000, can adopt a modified committee system. Most councils in England have the option to choose between the council leader and the cabinet. Around 52 smaller councils have been allowed to propose alternative arrangements, based on the older system. There are twelve councils where there are directly elected mayors. Where borough councils have not adopted a directly elected mayor, the chair of the council is considered as the mayor. In certain cities, the mayor is known as the Lord Mayor. The chairman of a town council is styled the Town Mayor.

The area which a council covers is divided into one or more electoral divisions – known in district and parish councils as ‘wards’ and in county councils as ‘electoral divisions’. Each ward can return one or more members; multi-member wards are quite common in England. There is no requirement for the size of wards to be the same within a district, so one ward can return one member and another ward can return two. Metropolitan borough wards must return a multiple of three councilors. There is no element of proportional system in these elections in England. The term of most of the councilors is usually four years. Councils may be elected wholly, every four years, or ‘by thirds’, where a third of the councilors get elected each year, with one year with no elections. Recently, the ‘by-halves’ system, whereby half of the council is elected every two years, has been allowed. Sometimes wholesale boundary revisions will mean the entire council will be re-elected, before returning to the previous elections by thirds or by halves over the coming years. Often, local government elections are watched closely to detect the mood of the electorate before upcoming parliamentary elections.

NOTES

NOTES

These councils in England have various powers of appointment of local officials in order to promote economic, social and environmental well-being of their area. These local councils are funded by a combination of central government grants, council tax (a locally set tax based on house value), business rates and fees and charges from certain services, including decriminalised parking enforcement. The proportion of revenue that comes from council tax is low, meaning that if a council wishes to increase its funding modestly, it has to increase the council tax by a large amount. The council tax is collected at the district-level council. Authorities such as the GLA, parish councils, county councils, passenger transport authorities, fire authorities, police authorities and national parks authorities can make a precept.

1.6.2 Local Government in United States of America

Local government in the US is generally structured in accordance with the laws of the various individual states. Generally, each of these state have at least two separate tiers of local self-government: counties and municipalities. Some states also have their counties further divided into townships. In turn there are several different types of municipal government, generally reflecting the needs of different levels of population densities in the US. Although the types and nature of these municipal entities varies from state to state, typical examples include the city, town, borough and village. Many rural areas and even some suburban areas of many states have no municipal government, below the county level. In a few states, there is only one level of local government, for example Hawaii, which has no legal municipalities below the county level. In addition to these broader administrative local self-governments there are local or regional special districts in different parts of America. Their existence is for some specific purposes. They provide sewer, transit, fire protection or water management services (Chandler 1993).

During the initial years of the European settlements, there was little control on these areas from governments back in Europe. Many settlements began as shareholder or stockholder business enterprises and while the king of Britain had technical sovereignty, in most instances full governmental authority was vested in the company itself. Settlers had to fend for themselves; compact towns sprung up based as legal corporations in what has been described as pure democracy.

After the American Revolution in 1776, the electorate got the right to choose the governing councils in almost every American municipality and state governments began issuing municipal charters. During the 19th century, many municipalities were granted charters by the state governments and became technically municipal corporations. Townships, county governments and city councils shared much of the responsibility for decision-making which varied from state to state. As the US grew in size and complexity, decision-making authority for issues such as business regulations, taxation, environmental regulation, moved

to state governments and the national government, while local governments retained control over such matters as zoning issues, property taxes and public parks. The concept of zoning originated in the US during the 1920s, according to one source in which state law gave certain townships or other local governing bodies authority to decide how land was used (Ibid: 142).

Local government in the US is a matter of state government rather than the federal government. Different states are free to adopt a variety of systems of local government. Nonetheless, according to the United States Census Bureau there are five categories of local governments in the US; County governments, sub county general purpose government (municipal government and township government), New England government, School districts and special purpose districts. County governments in different states of US are organized as local governments. They are authorized in state constitutions and statutes. They are established to provide general government in an area generally defined as a first-tier geographic division of a state. All states in the US are generally divided into counties or county-equivalents. These county equivalents are named differently in some of the states. For example, in Louisiana they are referred to as parishes and in Alaska, they are called boroughs. In some of the states like Connecticut and Rhode Island, these county governments are completely eliminated. Massachusetts has also partially eliminated them. In areas lacking a municipal or township government, the county government is generally responsible for providing all services (Ibid).

Sub county category of government includes municipal and township governments. Municipal and township governments are distinguished primarily by the historical circumstances surrounding their formation. Municipal governments are organized as local government and authorized by the state constitutions and statutes. They are established to provide general government for a defined area, generally corresponding to a population centre rather than one of a set of areas into which a county is divided. The category includes those governments designated as cities, boroughs, towns and villages. This concept corresponds roughly to the incorporated places that are recognized in census bureau, reporting of population and housing statistics, although the census bureau excludes New England towns from their statistics for this category and the count of municipal governments excludes places that are currently governmentally inactive. Township areas include those governments designated as towns in Minnesota, New York and Wisconsin and townships in other states that have them; the census bureau also includes New England towns in this category.

These different municipalities are of different sizes, the largest being the New York municipality with more than 8 million populations. In most states, county and municipal governments exist side-by-side. However, there are exceptions to this. In some states, a city can, either by

NOTES

NOTES

separating from its county or counties or by merging with one or more counties, become independent of any separately functioning county government and function both as a county and as a city. Depending on the state, such a city is known as either an independent city or a consolidated city-county. Such a jurisdiction constitutes a county-equivalent and is analogous to a unitary authority in other countries. In Connecticut, Rhode Island and parts of Massachusetts, counties exist only to designate boundaries for such state-level functions as park districts or judicial offices (Massachusetts). Municipal governments are usually, administratively divided into several departments, depending on the size of the city.

Most of the municipalities have responsibilities like urban planning/zoning, economic development of the area and maintaining of tourism, construction and maintenance of all city-owned or operated assets, including the water supply system, sewer, streets, storm water, snow removal, street cleaning, street signs, vehicles, buildings, land, construction and maintenance of city parks, common areas, parkways, publicly-owned land, operation of various recreation programs and facilities, police, fire services, emergency medical services, Emergency management, local tax collection and audits, transportation, housing related issues, etc.

The nature of both county and municipal government varies not only between states, but also between different counties and municipalities within them. Local voters are generally free to choose the basic framework of government from a selection established by state law. In most cases both counties and municipalities have a governing council, governing in conjunction with a mayor or president. Alternatively, the institution may be of the council-manager government form, run by a city manager under direction of the city council. In the past the municipal commission was also common.

School districts in the US are organized as local entities providing public elementary, secondary and/or higher education. These school districts have sufficient administrative and fiscal autonomy to qualify as separate governments in most of the state government. The category excludes dependent public school systems of county, municipal, township, or state governments. Special districts are also organized local entities other than the four categories listed above. They are also authorized by the state laws. However, unlike the four categories listed above the special district authorities are created to provide only one or a limited number of designated functions. These special district governments are known by a variety of titles, including districts, authorities, boards, commissions, etc. A special district may serve areas of multiple states if established by an interstate compact.

It is common for residents of major US metropolitan areas to live under six or more layers of special districts as well as a town or city and a county or township. In turn, a typical metro area often consists of

several counties, several dozen towns or cities and a hundred (or more) special districts. These fragmentations are so complex that they often create confusion regarding the length and extent of their jurisdiction. It has been attempted by different state governments in the US to consolidate these different local governments. However, due to the complexity of the system and some wasted interests, these efforts have not born fruits. Since attempts to create direct consolidation have proven futile, the US local government entities often form councils of governments, metropolitan regional councils, or associations of governments, as a form of temporary solution. These organizations serve as regional planning agencies and as forums for debating issues of regional importance, but are generally powerless relative to their individual members. Since the late 1990s, a movement, frequently called 'New Regionalism', accepts the futility of seeking consolidated regional governments and aims instead for regional structures that do not supplant local governments (Ibid).

NOTES

1.6.3 Local Self-government in France

According to its constitution of 1958, France has three levels of local government: 22 regions, 96 departments plus, 5 departments *D'outre Mer*, 36,679 municipalities or *Communes*. Paris is both a *Commune* and a department. In addition to these constitutionally defined local governments in France, there also exist inter-communalities between municipalities and departments and 2 overseas territories, namely French Polynesia and New Caledonia.

Traditionally, decision-making in France used to be highly centralized, with each of France's departments headed by a prefect appointed by the central government, in addition to the *conseil général*, a locally elected council. However, in 1982, the national government passed a legislation to decentralize authority by giving a wide range of administrative and fiscal powers to local elected officials. In March 1986, regional councils were directly elected for the first time and the process of decentralization has continued, albeit at a slow pace. In March 2003, a constitutional revision underwent many significant changes to its legal framework, towards a more decentralized system and had more the powers of local governments.

The post of the head of the department council or *conseil général* is an institution created in 1790 by the French Revolution, in each of the newly created departments. A *conseiller général* (departmental councilor) must be at least 21 years old and either live or pay taxes in locality from which he or she is elected. Though the central government can theoretically dissolve a *conseil général* (in case of a dysfunctional *conseil*), this has happened only once in the Fifth Republic.

The *conseil général* discusses and passes laws on matters that concern the department; it is administratively responsible for departmental employees and land, manages subsidized housing, public

NOTES

transportation and school subsidies and contributes to public facilities. It is not allowed to express its political views and wishes. The *conseil général* meets at least three times a year and elects its president for a term of 3 years, who presides over its permanent commission, usually consisting of 5-10 other departmental councilors elected from among their number. The *conseil général* has accrued new powers in the course of the political decentralization that has occurred past in France, during the past thirty years. There are in all more than 4,000 *conseillers généraux* in France.

Different levels of administration have different duties, though their shared responsibility is common; for instance, in the field of education, *communes* run public elementary schools, while *départements* run public junior high schools and *régions* run public high schools, but only for the building and upkeep of buildings; curricula and teaching personnel are supplied by the national ministry of education.

The three main cities, Paris, Lyon and Marseille have a special statute. Paris is at the same time a *commune* and a *département* with an institution, the *Conseil de Paris*, that is elected at the same time as the other *conseil municipaux*, but that operates also as a *conseil général*. The three cities are also divided into *arrondissement*, each having its *conseil d'arrondissement* and its mayor.

French overseas possessions are divided into two groups: four overseas *regions*, with some strong similarity of organization to their metropolitan counterparts; in these overseas regions all laws of France are automatically applicable, except if a specific text provides otherwise or provide some adaptation. The four *régions* are fully incorporated parts of the territory of the French Republic and as such belong to the European Union, which means that European law is applicable. In general, French laws are not applicable, except if a specific text provides otherwise. A new territory was created in February 2007: Saint-Barthélemy. This territory used to be part of the overseas *département* of Guadeloupe. The statute of Saint-Barthélemy provides automatic application of the French law, except mostly in the domain of taxes and immigration, which are left to the territory. The territories do not belong to the European Union. However, as overseas territories, they have association agreements with the EU and may opt-in to some EU provisions. The EU law applies to them only wherever it is necessary to implement the association's agreements. All inhabited French territories are represented in both houses of the parliament and vote for the presidential election.

Check Your Progress

8. What is the main underlying principle of the central government, for intervention or threats of interventions?
9. Which parliament is known as the origin of all parliaments?
10. When were municipalities granted charters by the state governments and become technically municipal corporations?

1.7 SUMMARY

- In this unit we have learned the principles and history of the local self-government.
- We studied that the idea of local self-government was a result of the rise of popular democracy in the European societies in the nineteenth and twentieth centuries.

- The growth in the idea of local self-government is also dedicated to the rise of the works and responsibilities of the state in this period. The growing demands for decentralization were a result of both these developments.
- In this unit we have also seen the different forms of local self-government institutions in United Kingdom, United States of America and France. These countries had been the pioneers in the modern forms of local self-government.

NOTES

1.8 KEY TERMS

- **Local self-government:** A form of public administration, such that the inhabitants of a certain territory form a community that is recognized by the central government and has a specific legal status
- **Parochial:** Anything related to the church parish
- **Rationalization:** The cognitive process of making something seem consistent with or based on reason
- **Obrigkeitslich:** In Germany, jurisdictional, dealing with the administration of justice
- **Rationalism:** A belief or theory that opinions and actions should be based on reason and knowledge rather than on religious belief or emotional response
- **Centralism:** A system that centralizes, esp. an administration
- **Totalitarian:** Of or relating to a system of government that is centralized and dictatorial and requires complete subservience to the state
- **Primordial cell:** The study of how life on Earth could have arisen from inanimate matter
- **bête noire:** Someone or something which is particularly disliked or avoided
- **Air-raid shelters:** A building or structure designed to protect people from bombs dropped during air raids

1.9 ANSWERS TO CHECK YOUR PROGRESS

1. One of the main distinctions between local self-government and national government is that local authorities do not enjoy sovereignty.
2. There are three main principles to define the idea of a local self-government; democracy, autonomy and decentralization.
3. The whole idea of local self-government was started as an attempt to create an internally independent administration.

NOTES

4. Langrod's stipulating definitions of democracy and local government constitute a curious blend of selective empirical observation and rigid apriority.
5. Professor Finer's hypothesis, discussed above, is intended to prove that there is a persistent psychological reaction to central administrative operations in the welfare state.
6. According to liberal theory, local self-government is supposed to develop naturally because of the character of social relations which inhere in the small community.
7. Costs of production and distribution in gas supply, water supply, transport, libraries and many other services can be reduced by establishing administration on the scale indicated by the analysis of costs, dependent upon the analysis of the technological factors involved in the service.
8. The main underlying principle for intervention or threats of interventions, by the central government is to make sure that civic rights are not in any way influenced by local authorities.
9. The British parliament is known as the origin of all the parliaments.
10. During the 19th century, many municipalities were granted charters by the state governments and became technically municipal corporations.

1.10 QUESTIONS AND EXERCISES

Short-Answer Questions

1. What is local self-government?
2. What is decentralization?
3. What do you mean by autonomy?
4. Which is the local authority in England?
5. What is devolution of power?
6. What does *bête noire* mean?
7. How many *conseillers généraux* are there in France?

Long-Answer Questions

1. Write a note on the history of ideas and principles on which local self-government is based.
2. Explain the concept of local self-government, on the basis of the idea of autonomy and decentralization.
3. Discuss the need and rationale for local self-government?
4. What are the problems associated with decentralization?
5. What are the different aspects of the local self-governments in UK, USA and France?

1.11 FURTHER READING

References

- Laski, H.J. (2004), *Grammar of Politics*. New Delhi: Surjeet Publications.
- Whalen Hugh. (1960), *Ideology, Democracy and the Foundations of Local Self-government*, *The Canadian Journal of Economics and Political Science*, 26 (3): 377-395.
- Finer Herman. (1943), *The Case for Local Self-government*, *Public Administration Review*, 3 (1): 51-58.
- Allan Cochrane. (1993), *Whatever Happened to Local Government?* Buckingham: Open University Press.
- Sharpe L.J. (1970), *Theories and Values of Local Government*, *Political Studies*, 2: 153-74.
- Kjellberg Francesco. (1995), *The Changing Values of Local Government*, *American Academy of Political and Social Science*, 540: 40-50.
- Chandler J.A. (ed). (1993), *Local Government in Liberal Democracies: An Introductory Survey*, London: Routledge.

Website:

<http://lawmin.nic.in/ncrwc/ncrwcreport.h>

NOTES

UNIT 2 URBAN GOVERNMENT IN INDIA: EVOLUTION AND STRUCTURE

NOTES

Structure

- 2.0 Introduction
- 2.1 Unit Objectives
- 2.2 Evolution of Urban Government in India
 - 2.2.1 Urban Local Government in India after Independence
- 2.3 Structure of the Urban Local Self-government in India
 - 2.3.1 Municipal Corporations and Councils: Composition, Functions and Finance
 - 2.3.2 Types of Administrative Structures for the City Governance
 - 2.3.3 Indian Models of Metropolitan Urban Governance
 - 2.3.4 District Planning Committee
 - 2.3.5 Metropolitan Planning Committee (MPC)
 - 2.3.6 Municipal Corporations and their Problems of Autonomy and Accountability
- 2.4 Summary
- 2.6 Key Terms
- 2.7 Answers to 'Check Your Progress'
- 2.8 Questions and Exercises
- 2.9 Further Reading

2.0 INTRODUCTION

During the period of their domination in developing countries, the colonial governments developed several statutory institutions. The urban local self-government is the most significant among them. Ever since the establishment of the Madras (now Chennai) Municipal Corporation in India, there has been an increase in the number of municipal bodies to manage the towns and cities. In this unit, you will learn about the evolution and structure of urban local self-government in India, urban local government of India after its independence, the functions, power and authority of municipal corporations and councils, various district planning committees of India, etc.

According to 2011 census, the urban population in India is now above 30 crores. It is around 30 per cent of its total population. This population is growing at the pace of 2.4 per cent every year. This means out of every 3 Indian 1 is living in urban areas. This creates a great need of a functioning urban planning and administration. The people in urban areas need basic facilities like public transport, roads, water supply, electricity, health facilities and several such services. The role of the urban local government in India is therefore very crucial. Growing urban population is a sign of overall shift in the basic economic structure of the society. It shows that economy is changing from an agrarian to

NOTES

industrial or even post-industrial phase. Rising population in urban areas and rise of big and small cities and towns have increased the number of local government bodies in country as well. Today India has more than twenty seven million plus cities and more than 4378 different urban areas. There are 109 municipal corporation cities, 1432 municipal councils and 2100 city rural bodies (they are some kind of notified area committees and so on). The definition of an urban area is based on the guidelines issued during the 1961 census. According to this census an urban area is one which has a minimum of 5000 population and not less than 400 per square meter population density. The area should also have at least three fourth of its male working population being engaged in a non-agricultural occupations (Maheshwari 1971: 157).

2.1 UNIT OBJECTIVES

After going through this unit, you will be able to:

- Learn about the evolution of urban government in India
- Explain the significance of the urban local self-government in India
- Discuss the reasons for its introduction by the British government
- Know the changes that have affected the urban local government in India after independence
- Explain the structure of urban local self-government in India
- Get an overview of the function of the system of urban local self-government in India, in detail
- Discuss the structure and role of a corporation municipality, notified area council and district planning councils
- Explain their composition, functions and sources of financing.

2.2 EVOLUTION OF URBAN GOVERNMENT IN INDIA

In India, the idea of local government connotes more than the mere local management of matters of local interest as has been studied in the last unit. When British government first planned to introduce the idea of local government in India the motive was to basically introduce a local administrative system which will work in collaboration between 'the association of natives and Europeans to a greater extent than heretofore in the administration of local affairs' (Wheeler 1917: 153). The then British government thought local administration also as an instrument of education of the people. According to wheeler, 'It is not, primarily, with a view to improvement in administration that this measure (i.e. the extension of local self-government) is put forward and supported. It is chiefly desirable as an instrument of political and popular education' (Government of India document as quoted in Wheeler Ibid). Therefore, it was a stated object of British rule in India to train the people in the

conduct of their own concerns through the introduction of local government.

It has been variously stated by scholars that in India, the idea of local government is not new and it has very old history. According to Maheshwari, 'the institutions of local government have flourished in India since time immemorial' (1971: 10). However, when we talk about the modern form of local government in India and particularly about the urban government, it is recognized beyond fail that this is a British creation. Even Maheshwari concurs, 'Although local government existed in India in ancient times, in its present structure and style of functioning, it owes existence to the British rule in India' (Ibid: 13). . Wheeler quotes Imperial Gazetteer to show the impression that Indian local government institutions had on the imperial scholars. According to this Gazetteer, 'while the Hindus had for many ages a system of village self-government, neither they nor the Mughal conquerors succeeded in evolving a local administration such as that which grew up in Europe. Neither the customary rule of the Indian village communities nor the regulations of the industrial castes, which in some respects resemble mediaeval trade guilds, ever grew into a true municipal system; and the accounts which have reached us of the method of town government in Hindu and Muslim period of rule show the authority vested not in a representative body of inhabitants, but in the police officers, tax gatherers and other officials of the Sovereign' (Wheeler 1917: 153). The introduction of local government was motivated by interests of the British. They first saw it as an instrument to ease central and provincial finances and thus to sub serve imperial needs. A municipal corporation was first set up in 1687 in Madras. It was based on the model of British local institutions prevalent at that time. Its main purpose was to levy different taxes. According to Maheshwari, 'the municipal corporation was set up because the East India Company believed that the people would willingly pay five shillings for the public good, being taxed by themselves, than six pence raised by their despotic power' (Ibid: 14). In 1726, owing the opposition from the local population for excessive taxation the municipal corporation in Madras was replaced by mayor's court. This reduced its administrative role and increased its judicial powers.

The persistence of Sir Josiah Child, who was the governor of Madras during that time, resulted in the establishment of a municipal government, based on the English pattern of governance. This was directed at resolving the difficult problems pertaining to the conservancy of that town. The consequences of this were that in 1687, the East India Company was granted the authority to establish a corporation and mayor's court in Madras, through a charter. This authority was given to the East India Company by James II, King of England. The establishment of this new civil government took place with complete support from the mayor, Aldermen and Burgesses, who had the power to impose taxes for constructing a building to be used for meeting and

NOTES

NOTES

performances, a prison and a school with houses for its staff. These taxes were also utilized for the development of other works of public utility and civic services and for paying the salaries to members of the municipal staff, including the teachers. The mayor and aldermen introduced a court of record for running trials of civil and criminal cases. The attractive characteristics of municipal operations were very similar to those in London and on significant occasions, the mayor would carry with him, two staves of silver, a layer of gold, for decoration, which was not more than three and a half feet long. The robes worn by him and the aldermen comprised of scarlet serge gowns. They travelled on expensively decorated horses that were decked with different types of ornamental trinkets. However, despite all the flamboyance related to the situation and occasion, there was a firm opposition from the people against the direct taxes that were levied. Hence, it was not possible to carry out the work related to the new corporation till the mayor granted the permission to impose taxes for building up funds to carry out the related development work. Subsequent to this, in the year 1796, a mayor's court with alderman and without burgesses was introduced by a Royal Charter. Similar courts were established in each of the three presidency cities of Calcutta, Madras and Bombay. However, the target of these courts was to put into effect judicial, rather than administrative operations. Long after this, the Charter Act of 1793 made the first statutory enactment of real municipal administration. The British parliament approved and agreed to pass this Act as soon as the East India Company took charge of the political responsibilities in India. Through this Act, a governor-general of India was appointed and was given the power to appoint justices to keep up peace in the presidency cities. Along with their judicial responsibilities, they had the authority to raise funds by gaining access of lands and houses in the towns for scavenging, watching and maintaining the streets. Approximately fifty years later (in the period of 1850-53) the municipal constitutions of the three presidency cities were created and a restricted edition of the elective principle was set up. However, soon after this, in the year 1856, a policy that looked like a reaction to this, was introduced and operations of the municipality were limited to a body corporate of three nominated and salaried members. It is an amusing fact that since the year 1793, the practice of raising money for municipal related development work has been done through lotteries. In Calcutta, the money thus raised was used to reconstruct the Town Improvement Committee, which was appointed by Lord Wellesly, in the year 1803.

The income earned from these lotteries was commendable. It was used to carry out various public related works and services. The popularity of this method was endorsed by the creation of a lottery committee in the year 1817. For 20 years this committee was involved in work related to utility and development till, the public opinion in England went strongly against this method of provision of funds for municipal purposes. This resulted in the end of the committee in the year 1836.

NOTES

One of the most prominent evidence of the use of these funds was The Town Hall of Calcutta. This was one of the great works of public service, built during those years with the help of the funds collected through lotteries. The system of municipal administration was restructured after the Council's Act was legislated in the year 1861. This restructuring took place through provincial legislatures which were then put into function and since then, there were augmented differences in the history of the growth and development of municipal affairs in each of the three presidency cities.

Through locally legislative procedures, in the years 1872, 1876 and 1878, Bombay, Calcutta and Madras, respectively adopted the system of electing representatives by the ratepayers for the first time. However, one cannot suppose that any system, even remotely resembling a complete local self-government was granted to them through those Acts. Almost fifty years later, the government framed policies that were oriented to exercise a stringent and unreasonable control over these municipalities through official chairmen and other different set-ups that were calculated to deprive them of real popular control. With the help of different methods, some even positively retrograde in character, those three municipalities have finally obtained more or less developed real self-government. Practical autonomy was achieved by the Corporation of Calcutta (III of 1993) and also by those of Bombay (III of 1888) and Madras, (IV of 1919), although the extent of acceptance was not that much.

Beyond presidency towns, there were no efforts directed to establish municipalities, prior to the year 1842. The first province to experience the attempt made by this act was Bengal. This was far in advance of the times. Due to these factors, it was not successful in impressing the public mind. Just one town introduced this and when it was time to realize the tax, the entire town not only refused to pay, but it actually prosecuted the collector for trespassing, when he tried to levy it. In 1850, one more attempt was made by an Act for the whole of British India. This was a more lenient Act, but its success was higher, as this Act levied taxes indirectly. The application of this Act was widely carried out in the then North West Province and in Bombay. It was feebly applied in Bengal and Madras, which were the areas that had been subjected to other municipalefforts.

Subsequently, the report of the Royal Army Sanitary Commission was published in 1863 and prime focus was given to the requirements of municipal measures in the county territories, (*Mofassils*). Between the years, 1864 and 1868, Acts for Bengal, Madras, Punjab and North-West Provinces were passed. After incorporating changes, the Act of 1850, was adopted in Bombay and the central provinces and the Punjab Act was adopted by *Oudh*. In the following series of acts a very large number of municipalities were created. There have been a number of cases where zeal overcame caution and unimportant rural geographies

NOTES

were loaded with municipalities that were later withdrawn. The Acts for Bengal, Northwest Provinces and Punjab made the elective principle permissible, but in almost all places the commissioners were nominated. Though from the point of view of local self-government these acts did not achieve much success, still they were definitely of great help in improving the conditions of sanitation in many countries and cities.

Two important steps that were adopted by the great viceroys, i.e., Lord Mayo and Lord Ripon, in the years that followed, were highly motivating to local self-government in India. The system of provincial finance was introduced by the resolution of Lord Mayo's Government. This resolution clearly aimed at giving opportunities for the development of self-government and also for the association of Indians and Europeans in taking a large share in the administration of local affairs. To carry out this advantageous policy, new acts were passed for almost every province and they also got extended to Burma. The Acts gave a broader spectrum to the sphere of municipal usefulness and also enhanced the principle of election. The elective principle, however, could not be successfully introduced in any province with the exception of the central provinces. This was due to the objections raised by the people themselves. Approximately ten years later, in 1881-82, the government of Lord Ripon issued orders which resulted in further encouraging the development of local self-government. Like a true statesman, he showed a keen interest in the matter, as it was his belief that local self-government was a means of popular and political education.

The success of this would have been many times more if the bureaucracy that was handling the actual organization had not been short-sighted and had been more like that of a statesman. However, Acts that were implemented in 1883-84, greatly changed the constitution of the municipal bodies and also gave them more power and responsibilities. It was decided for a wide extension to be given to the elective system and some towns to be provided with elected chairmen instead of executive officials. Lord Rippon made another major alteration, which was freeing the municipalities from the burden of paying the costs of the town police on which they had no control. To replace such costs, the support of the municipalities was sought for education, medical aid and local public works and at the same time, some parts of the provincial revenues were allocated to local self-government, with proportionate liability. It is not easy to thoroughly examine the growth of municipal constitution in the different provinces of India.

The municipal government was vested in a body corporate and it comprised of members, some of whom were elected by the ratepayers and others were nominated by the government. Within the Acts, there was a chairman of the municipality and in advanced provinces he was usually an elected member of the body. The municipal funds and properties were vested in these bodies. A sizeable part of the work was

carried out in the form of committees. It was common to have elections every three years and the rules for elections were framed by the respective provincial governments. It was mandatory for voters to have a certain property or status qualification. The elections in larger bodies were held in general by wards or classes of the community, or both. The enfranchisement of women was rather an exception than a rule, but the popularity of it was being gradually accepted. The history of government control over the municipalities was not a pleasing scene.

Although, it was the policy of Lord Ripon to replace external control with internal interference in municipal issues, still the desire of the bureaucracy to exercise perpetual control on these local bodies was very prominent. This adverse situation upset the growth of genuine local self-government for about a third of a century after Lord Ripon's time. Nevertheless, this control was widely brought into effect by the district magistrate and the divisional commissioner. Ever since the reforms were introduced, the final control now came to the minister who was in charge of local self-government in different provinces. He was selected from the elected members of the provincial legislative councils. Special control was exercised over finance and important appointments and the government had to sanction the annual budget. The area of operation of the municipalities was gradually widening and it became either mandatory or discretionary to divide their duties, which were now very elaborate. Every municipality was called upon to fulfil their duties as according to their means. The Acts and by-laws framed by them provided them with various powers to enforce demands related to sanitation or prevention of adulteration in food, etc. by imposing fines and penalizing the offenders. Although, the municipalities in British India were not that strong in terms of numbers, their improvement in terms of effectiveness and constitutional progress was commendable, till 1920s.

The 1793 Charter Act made local government in India a statutory body for the first time. It established municipal administration in three presidency towns of Madras, Calcutta and Bombay. The highest authority in these municipal administrations was called justices of peace which was entitled to levy taxes in exchange to the provisions of basic sanitation, security and transport facilities in the towns. This act was further extended to other smaller towns in Bengal in 1842. According to the 1842 Bengal Act, town committees could be formed on the request of two third householder of a town for the services quoted above. It has been noted that none of the towns in India opted for this provision. In 1863 when Royal Army Sanitary Commission expressed its concern about the filthy condition of Indian towns different acts were passed to create municipal corporations in different parts of India. In these acts provincial administrations were empowered to create these corporations in order to provide basic sanitation, lighting and water facilities in all the towns of the country (Maheshwari 1971).

In 1870 Lord Mayo, the then viceroy of India, proposed a resolution calling for decentralization of authority in Indian administration and

NOTES

NOTES

establishing a local self-government system in India with the active cooperation of natives. According to the resolution, its operation in its full meaning and integrity 'will afford opportunities for the development of self-government, for strengthening municipal institutions and for the association of natives and Europeans to a greater extent than here-tofore in the administration of affairs' (as quoted in Maheshwari 1971: 15). Therefore we can conclude that till 1870s most of the initiatives taken in the field of local government in India were motivated by the objective of increasing the revenue from towns or providing basic minimum facilities to the growing urban population in India. Most of these local governments were dominated by the British and almost all of them were nominated bodies. These features of the local government in India establish the fact that till 1870s it was unrepresentative. Role of Indians was very limited and they were totally dependent on the British officers and administrators.

The rise of the national consciousness among the people in the late 1870s was very obvious for the British rulers in India. The successor of Lord Mayo Lord Rippon was a liberal. He was more willing to accommodate the Indian views in the administration and therefore he tried to pacify the rising Indian aspirations through various administrative and political reforms. One of his most important contributions in Indian political development was the introduction of the idea of local self-government in 1882. His idea of local self-government for India was to make it as an instrument of popular and political education (Maheshwari 1971: 16). According to Rippon's proposals, most of the local bodies should have elected non-government members, they should not control these bodies directly, these local bodies should be given adequate financial autonomy, the officials concerned with local issues should be controlled by these local bodies and it should be left for provincial government to decide what should be the exact nature and context of the working of these local bodies.

These proposals were very strong and far-reaching. However, most of these proposals could not be implemented due to the strong objections by the bureaucracy at that time. Nevertheless, in some provinces some of the provisions of Rippon's resolution were implemented. For example, it laid the foundation for the local self-government Acts in Bombay of 1901, Bengal of 1884, Madras of 1920, Punjab of 1911, United Provinces of 1916, Central Provinces of 1922 and Burma of 1898. Despite the fact that most of these provincial regulations for local self-government were modified according to the time and context, they were all based on the broader principles laid down by Lord Rippon. Government of India established a Royal Commission on decentralisation in 1906. This commission submitted a report in 1909 in which the idea of local self-government for both rural and urban areas was accepted and it accepted most of the provisions of the Rippon's resolution. According to the recommendations of the Royal Commission, there should be majority of elected members in the local bodies, every municipality should elect

NOTES

its own president, the district magistrate should however remain the head of the district local board and municipalities should be given enough financial rights in order to make them financially independent. Government should also provide certain grants to these local bodies for certain important projects. The bodies should have control over local officers. They should be autonomous to a possible extent. However, these local bodies should take prior permission for any selling and buying for their land. These local municipalities should be given the primary responsibility to provide primary education. They should also provide secondary education. In 1918, the government of India issued a resolution re-affirming the objective of local self-government in India. According to the resolution the main purpose of the local self-government in India was to train the people in the management of their own local affairs and the political education. It further warned that the political education must take precedence on consideration of departmental efficiency. This resolution largely reiterated the principles prescribed by the Royal Commission upon decentralisation.

Till now local self-government in India presents three forms: that of municipalities dealing with the affairs of towns; that of rural boards concerned with the improvement of non-urban tracts; and that of villages in which authorities of various kinds in varying degrees regulate the business of the smallest administrative unit. As might be expected, the needs of the presidency towns of Madras, Bombay and Calcutta first obtruded themselves upon the notice of the East India Company and attempts were made to adapt to them the machinery of corporations, mayors, aldermen and justices of the peace. But outside these towns municipal legislation of a general character was not attempted till 1850, or on any extensive scale till the 'sixties. In rural areas local administration was of later and slower growth. For practical purposes it was not until 1870 that the delegation of definite financial resources and responsibilities by the Imperial to the provincial governments rendered possible and encouraged the development of local taxation to be devoted to local needs under the management of those immediately interested, but even then it was not until the orders of Lord Ripon's Government in 1881-2 that Acts of 1883-4, in the case of municipalities and of 1883-5 in that of rural boards, established the systems which, in their main outlines, have continued to the present day.

Since 1880s there has been much legislation of an amending character, but the framework on the whole has remained unchanged. In judging of results, therefore, it is essential to remember that local self-government in India is not an indigenous nor even a long tried institution. In the first decade of twentieth century, municipalities in India were very small. Only around 5 per cent of the population of India was living in some kinds of town, compared with 78 per cent in England and Wales at that time. More than half of this urban population of India was found in towns containing upwards of twenty thousand inhabitants; about one-fifth in towns with from ten to twenty thousand and the same

NOTES

proportion in those from five to ten thousand; the remainder, about one-fifth, lived in towns with less than five thousand (Wheeler 1917: 155).

At the outset, with the laudable intention of extending local management, municipalities were erected in localities which were not truly urban. The supervision of the business of these towns was entrusted to 9,753 councillors (the significance of the figure lies in its comparison with the total population), of whom 51 per cent were elected. Out of these 10000 odd councillors 81 per cent were non-officials and 88 per cent were Indians by 1910. On the other hand, it is only in Madras, Bengal, the united provinces, Bihar and Orissa and the Central Provinces that elected members were in a majority, while the two backward provinces of the North-West Frontier and Baluchistan had no elective system and in Burma it was rudimentary. The electoral franchise was very limited and the percentage of electors to the aggregate municipal population was low. In all the municipalities, the performance depended upon the personality of their chairman. Most of these chairmen were elected (67%).

The functions of Indian municipalities after the recommendations of the Royal commission comprised the usual services essential for the health and convenience of town dwellers. They covered the construction and upkeep of roads and public buildings, the lighting and watering of roads, medical relief, vaccination, sanitation, drainage, water supply, measures against epidemics and education. To meet these responsibilities their resources were by no means as extensive as might be desired. It may be said that British India was divided for administrative purposes into revenue districts, sub-divisions and within them the smaller units of *Talukas* and *Tehsils*. The efforts towards the establishment of local self-government had by the 1910s resulted in the creation of an appreciable number of local bodies, the total, however, being still small in comparison with the population of the country. In the personnel of these bodies the Indian non-official element predominates and while, judged by the Western test of popular election, it was only partially representative, yet it included a fair selection from the educated land holding and professional classes.

According to Wheeler this condition was due to the fact that in the ranks of only these sections of the Indian society, at that stage of Indian development, administrative ability was most likely to be found (1917: 158). The functions entrusted to these bodies covered as wide a field as was desirable and expedient at that time and afforded ample scope for useful and important work, but the funds at their disposal, especially in the case of municipalities and even in that of rural boards, looking to the area to be covered, did not suffice for the general initiation of expensive improvements. Due to the lack of funds administration had to be conducted on simple and economical lines, compatible with the income available. Whereas in the West the practice was rather to estimate the cost of the necessary municipal services and then to fix the rates on a scale adequate to meet the expenditure involved, the

NOTES

Indian method was, taking the total sum likely to be produced by the prevailing modes of taxation, to arrange expenditure to the extent only of which the anticipated revenue will permit. In the smaller municipalities the biggest problem had always been the dearth of local revenues, their inflexibility and the difficulty of formulating other forms of taxation. The tentative reason for this was the weak economic state of the country, since the per capita income was extremely low. This weak an economy was endorsed by the fact that a sizeable population were not even able to have a one full meal a day. Another significant reason for this that is still existent throughout the country is the lack of feelings and concern towards every form of public life. Beyond doubt, this came into affect because of apparent ignorance and illiteracy. Just 12 per cent of the males and 2 per cent of the females were educated. Extreme poverty and deplorable ignorance, emergence of strong and nasty associations, etc., were strong enough to reinstate the appalling lack of sympathy for a long time to come. The third prominent problem that existed, consisted in the fact that even literate Indians belonging to the upper-class were usually not willing to help address the problem, related to the trouble, expense and inconveniences of election. In this connection the biggest problem arose from the fact that the superior classes of Indians, on the whole, harboured a strong ill-feeling for door-to-door canvassing, simply because it was regarded as disparaging to ones self-respect to go about to solicit for votes, especially to the lowerclasses.

Another important class of difficulty arose from the fact that the sense of responsibility in public affairs was not allowed to develop because of the policy of the government to grow adequately. Unwarranted meddling with the executive of the public bodies and inappropriate leniency in the issues related to evaluation and realization of taxes were the deplorable highlights of this class. In addition to this, there are other problems that may emerge as a result of ignorance of the laws of public health and absence of the power to make intelligent anticipations of public requirements. This list of problems, nevertheless, cannot be closed without the mention of the most prominent problem that very often arises from extreme levels of communal feelings and even most un-justifiable and protracted litigation over elections (Mallik 1929). Various scholars at that time suggested ways to improve the working of local self-government in India.

According to Mallik, the remedy was to carry out programmes of large-scale education. So far, it was quite evident, considering the figures that only 5 per cent of the revenues of the government were spent on education. The basic components of such education programmes should be directed at resolving of problems related to sanitation, public health cooperation and civic sense. Children and the youth should be taught about important ideas and conceptions and a few of the principles of election and public life. It was unfortunate that there was absolutely no consideration for public property and there was gross misuse of public funds. Private agencies and organizations had a very strong

NOTES

influence on matters that affected the public. This was coupled with the effects of personal likes and dislikes. To resolve these problems, it was important to consider a stringent system of public audit and supervision of these local self-government bodies. It was also necessary to base the direction of education towards the basics of civic life. This would work as a certain and only effective remedy, more importantly against the mindset of forming groups and communal hatred. To counter such problems, it is important to reconstruct the whole organization must be rebuilt from village unions towards with larger electorates, with gradually lessening inner control and interference. The local bodies should be empowered with more authority and power to manage their expenses and exercise the function of reorganizing funds.

A higher level of authority should be given to municipalities and boards so that they can impose taxes for sufficing their requirements. The rise of taxes is always faced by a strong public opposition. However, this can be reduced by gaining the confidence of the general public before levying such taxes. One can be absolutely sure that the extreme poverty of the people as a whole was the main cause of this problem and it was very difficult to suggest any remedy in that direction. One more critical measure in this direction was the establishing of provincial training institutions for those who have been newly employed in various departments of the local self-government. Such trainings should include practical sessions and the creation of a distinct provincial service for them, with attractive prospects of promotion to executive offices. Although such problems exist, the present system of local self-government was increasing in terms of popularity day by day. The institutions were regularly attracting the intellectual people of the country and the higher class of citizens.

Based on these and other suggestions the government of India in 1919 accepted the Montesquieu Chelmsford reforms. The pressure created by the rising aspirations of the people of India for their independence also played a very crucial role. The acceptance of the principle of dyarchy gave greater responsibilities to the local governments with more autonomy. The Government of India Act 1919 abolished the need of having a civil servant as the head of the municipal bodies. It also provided the scope of appointing elected heads for the local district boards. This and reforms in 1935 Government of India Act led to the more and more democratization of the local bodies. People from urban areas had more and more powers to elect their representatives in the local bodies. Nevertheless, most of these bodies had very limited franchise based on education and wealth. The government of India after independence had the responsibility to improve this condition.

2.2.1 Urban Local Government in India after Independence

After independence first major reforms in the local self-government were initiated in 1948. The then local self-government minister D.P. Mishra initiated a reform in provinces where he abolished the dual structure of

local self-government one district administration and another local government with its rural and urban local governments. This initiative extended the sphere of activity of the district board to the whole of the district administration and making the district collector the chief executive officer of the district board and the district staff as its own. This reform divided the powers into four classes of I II III and IV which ranged from full powers to the district boards to the advisory powers. In all the cases district board were to be taken into the confidence. This scheme though had advantages of district boards having full sovereignty on certain matters and having full control over the staff mate with severe criticism at the central levels. It was called as Central provinces and Berar Local Government Act 1948.

NOTES

This scheme took *Tehsil* as the basic unit of government and therefore considered to be the closest scheme till time which took it to the people. It was also known as *Janpada* scheme. After the adoption of the new constitution the reforms in the rural local self-government got tremendous attention unlike the urban local self-government. Since local government was a subjected of state list central government did not took much notice to it till the third five year plan. In the Third Five Year Plan (1961-66) it was accepted that 'in the next phase of planning, as many towns and cities as possible, at any rate those with a population of one lakh or more, should come into the scheme of planning in an organic way; each state mobilizing its own resources and helping to create conditions for a better life for its citizens' (Planning Commission, as quoted in Maheshwari 1971: 26). Till 1968 the central government had appointed several committees in order to bring reforms in the urban local government. Some of these committees were; Local Finance Enquiry Committee 1951, Committee on the Training of Municipal Employees 1963, Committee of Ministers on Augmentation of Financial Resources of Urban Local Bodies 1963, Rural-Urban Relationship Committee 1966 and Committee on the Services Conditions of Municipal Employees 1968. As we can see most of these committees were formed only after the 1960s showing very clearly that it was only then the central government realized the need to improve the condition of local self-government in India.

Since local government falls under the purview of state governments there are some variations in their nomenclature and structure. Every state has separate departments for urban and rural local self-government as has the centre. Most of the urban local self-governments in all the states however have similar structure which we will see below. This chapter will deal with the structure and power of the urban local self-government till the 1992 amendment. As after that we have seen significant changes in the power and structure of these bodies.

Till very recently urban local government constituted the charge of the Ministry of Works and Housing. Historically local government in India had its beginning in an urge to improve local sanitation and hence has

NOTES

continued as the responsibility of the Ministry of Health. The Ministry of Health was looking after both urban and rural local government until 1958 when the latter was separated from it and came under the charge of the Ministry of Community Development. In January 1966 a part of local government, namely urban development, was renamed the Ministry of Works and Housing, which was again renamed in 1967 as the Ministry of Works, Housing and Urban Development. Again in the same year the subject of urban development was transferred back to the Ministry of Health which carried a rather longish name, the Ministry of Health, Family Planning and Works, Housing and Urban Development.

In 1973 the subject of urban local government was retransferred to the Ministry of Works and Housing. The Ministry deals with the following subjects and organizations in the sphere of local government: Collection and collation of information with regard to the urban local government in the states, Central Council of Local Self-Government, Town and Country Planning Organization, Urban Community Development, Improvement Trusts, Training of Municipal Government Personnel, All-India Mayors' Conference and Advising the Ministry of Home Affairs on matters relating to local governments in the union territories. The name of the Ministry was changed to Ministry of Urban Development in September, 1985 in recognition of the importance of urban issues. With the creation of a separate Department of Urban Employment & Poverty Alleviation on 8th March, 1995, the Ministry came to be known as the Ministry of Urban Affairs & Employment. The Ministry had two Departments: Department of Urban Development & Department of Urban Employment & Poverty Alleviation. The two Departments were again merged on 9th April, 1999 and in consequence thereto, the name has also been restored to 'The Ministry of Urban Development'. This Ministry was bifurcated into two Ministries viz. (i) 'Ministry of Urban Development' and (ii) 'Ministry of Urban Employment and Poverty Alleviation' with effect from 16.10.1999. These two Ministries were again merged into one Ministry on 27.5.2000 and named as 'Ministry of Urban Development and Poverty Alleviation' with two Departments. They are (i) Department of Urban Development and (ii) Department of Urban Employment and Poverty Alleviation. From 27-5-2004, the Ministry has again been bifurcated into two ministries viz.: (i) Ministry of Urban Development and (ii) Ministry of Urban Employment and Poverty Alleviation (Now Known as Ministry of Housing and Urban Poverty Alleviation).

The central Council of Local self-government, which was created in 1954, was a coordination body between the different state ministries of local government and central Ministry of Health. Till 1958 it was concerned with both rural and urban local governments. After that it was only concerned with the urban local self-government. This Council use to organize annual meetings of Mayors, State Ministers of Town and Country planning, Housing Minister's Conferences etc. These meetings were organized to evolve a greater uniformity and coordination of urban local government institutions and bodies.

Urban local government till 1992 was the responsibility of the Department of Local self-government in the states. At the state level a number of departments deal with subjects which are the direct concern of the urban government. In addition to the Department of Local self-government, the functional departments in the secretariat administer the various components of urban development. Thus water supply, drainage and sewerage, road construction, land acquisition and development, housing and slum clearance, etc. are being dealt with by respective functional departments. As is to be expected under such a fragmentary arrangement, the urban affairs do not get viewed as one integrated function. Consequently there is a haphazard and piecemeal development bearing an imprint of lack of coordination. It is, therefore, not unusual to find the dwelling houses in a town fully completed yet remaining unoccupied for, say, want of electricity of water supply or even both. This is an avoidable waste. Urban local self-government needs grater coordination between its different bodies. The structure of the urban local self-government is very complex.

NOTES

2.3 STRUCTURE OF THE URBAN LOCAL SELF-GOVERNMENT IN INDIA

As has been mentioned above the structure of urban local self-government is very complex and varies according to the state. Most of the states in India have adopted different structures of these urban bodies. Nevertheless, there is a minimum structural uniformity which we are going to study here.

Municipal governance in India was first introduced in 1687. It was in this year that the Madras Municipal Corporation was constituted. This was followed by the development of the Calcutta Municipal Corporation and the Bombay Municipal Corporation in 1726. Another important decision in this field was taken in 1850, when the Government of India passed the Improvements in Towns Act creating a system of councillors. The Act gave the councillors the administrative authority. In 1870, Lord Mayo passed a Resolution of for local self government, establishing the system of city municipalities. This Resolution also called for the introduction of an elected president to lead them. Other significant developments that followed the 1870 resolution were as follows:

- In 1882, the outline and structure of municipal governance in India was created by Lord Ripon's Resolution of Local Self-Government, introducing a two-tier system of governance for enhancing governance efficiency through decentralization of functions.
- On the basis of the 1918 Montague-Chelmsford Report, The Government of India Act 1919, based on the basis of the 1918 Montague-Chelmsford Report, introduced the system of 'Dyarchy'. In this system, the power-sharing arrangements

Check Your Progress

1. What was the basic motive of the British government to introduce the idea of local government in India?
2. Who introduced the system of provincial finance?
3. Which Act made local government in India a statutory body for the first time?
4. How was the British India divided, for administrative purpose?
5. When did the government of India accept the Montesquieu Chelmsford reforms?

NOTES

between the state and the local bodies varied. However, it adhered to the same organizational pattern.

- The District Municipalities Act of 1920 changed the Municipal Councils into elected bodies and gave them the authority to release their own budgets.
- Under the Government of India Act 1935, the local government was brought within the purview of the state or provincial government. The local government was also granted additional powers.

2.3.1 Municipal Corporations and Councils: Composition, Functions and Finance

Municipal Corporation is the topmost of urban local government. Unlike rural government, urban local government in India is not hierarchical. Municipal corporations are usually found in big cities. Large population creates complex civil problems and therefore to solve these problems we need municipal corporations. In different states of India generally municipal corporations are created by special statute in the state legislations and these corporations are directly controlled by the state governments. All the municipal corporations consist of elected representatives of the people and some state elected officials. All the municipal areas are divided into wards which are generally electoral constituencies. These municipal corporations in all the states, except for the state of West Bengal, consist of Corporation Council, the Mayor, the commissioner and a number of Standing Committees.

The post of the mayor is the highest post in a municipal corporation and generally he is elected for one year term from the councilors elected from different wards. The mayor chairs the meetings of the council. Most of the administrative powers are however with the Commissioner who is generally appointed by the state government and is an Indian Administrative Service cadre. Different standing committees are made to deal with a particular issue and these standing committees deal with their own issues. Some of the most important standing committees are related to the budget and finance and establishment and personnel etc. The state of West Bengal has a slightly different set up. It has a system of Mayor in Council. Once the mayor is elected he recommends the name of the other members in the council and they form a cabinet like structure. Each of the members of the Mayor's council is responsible for one particular subject and commissioner unlike in other states is under the council and follows the decisions taken by the mayor's council.

In the smaller towns and cities municipalities or municipal councils manage their civic affairs collectively through the municipal board and committees. In all the municipal bodies sub-committees are created to deal with the subjects like water supply, sanitation and public works. Unlike in the big cities municipalities head is called chairman and he/she is elected for one year term from among the elected members of

NOTES

the municipality. Just like in municipal corporations the chairman's post is there to chair the meetings of the council. Real administrative powers are with executive officer appointed by the state government. In some of the states like Kerala and Tamil Nadu most of the officers appointed for the duties in the municipalities are given separate charges for a particular are like health and sanitation. In most of these local bodies the lower level staff is appointed from the local population.

Most of the municipalities or municipal corporations have two basic functions; legislative and executive. All the elected members of the council in all these bodies are considered as the legislators and they collectively debate and deliberate over the policies and planning about the area. They have the right to approve the budget for the body and deciding on the subjects of taxation and provisions of services in the area. The council held different officials and committees accountable. The executive jobs in the municipal corporation and councils are done by the state appointed officers or municipal commissioner and local officers. Most of the works of the municipal corporations and councils are divided into two parts; obligatory and discretionary. Obligatory works are related to the basic sanitation and services in the cities such as supply of water, maintenance of roads etc. Discretionary functions, such as the building of houses for the poor and organizing the events are subject to the availability of funds and other resources.

It is up to state governments to decide the extent and subjects of taxation by the municipal corporations and councils. However, in most of the states it has been generally found that municipal corporations or councils collect housing taxes and several user charges along with the collections from the special services such as organization of an event. In general their source of income is divided into three parts; Taxes, Fees and Fines and earning from its enterprises such as market places and other such resources. Municipal Corporation and Municipal councils put taxes on property and charge for their services. They are also provided with one time grants from the state governments. After the 74th amendment, as we will study them later, there is a provision of the establishment of finance commission after every five years through which state has to allocate funds to these local bodies.

Constitution of municipalities

Act 243-Q provides for the establishment of the following three types of municipal corporations in urban areas:

1. A Nagar Panchayat for a transitional area, that is to say, an area undergoing transition from a rural area to an urban area
2. A municipal council for smaller urban area
3. A municipal corporation for a larger urban area

In this article, 'a transitional area', 'a smaller urban area' or 'a larger urban area' refers to such an area as the governor may possess with

NOTES

regard to the population of the area, the density of the population in that area, the revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic or such other factors as he may consider fit, etc. A municipality means an institution of self government constituted under Act-243a.

Composition of municipalities

Article 243-R provides that all the seats in a municipality shall be filled by the persons chosen by direct elections from territorial constituencies in the municipal area. For this purpose, each municipal area is divided into territorial constituencies to be known as wards.

Constitution and composition of wards committees

Article 243-S provides for the constitution of wards committees comprising of one or more wards, within the territorial area of a municipality having a population of three lakhs or more.

The legislature of the state may make provisions with respect to:

1. The composition and the territorial area of a wards committee
2. The manner in which the seats in a wards committee shall be filled

A member of a municipality constituting a ward within the territorial area of the wards committee shall be a member of that committee. Where a wards committee consists of one ward, the member representing that ward in the municipality shall be the chairperson of the committee.

Where a wards committee consists of two or more wards, one of members representing such wards in the municipality elected by the members of the wards committee shall be the chairperson of that committee [clause (4)]. Nothing in this Article shall stop the legislature of a state from making provisions for the constitution of committees in addition to the wards committees [(Clause (5))].

Reservation of seats in municipalities

Article 243-T has made the provision for the reservation of seats for the members of scheduled castes and scheduled tribes in every municipality. The member ad seats reserved for them shall be in same proportion to the total numbers of seats to be filled by directed election in that municipality.

Out of the total numbers of seats reserved under clause (1), 113 seats shall be reserved for the women belonging to SC and ST. The office of chairpersons in the municipalities shall be reserved for SC, ST and women in such manner as the legislature of a state may by law provide.

Reservation of seats for backward class of citizens

Under clause (b), the legislature is empowered to make provisions for reservations of seats in any municipality of office chairpersons in the

municipalities in favour of backward class of citizens. All kinds of reservation of seats shall cease to have effect on the expiration of the period specified in Act 334 that is (upto 50 years from the commencement of the constitution).

Duration of municipalities

Article 243-U provides that every municipality, unless sooner dissolved under any law for the time being, shall exist for 5 years from the date appointed for its first meeting. No amendment of any law for the time being shall have the effect of causing dissolution of a municipality, at any level, till the expiration of its normal duration of 5 years.

Election

An election conducted for the municipality shall be completed before the expiration of its duration and before the expiration of a period of 6 months from the date of its dissolution in case it had been dissolved earlier.

Disqualifications for membership

Article 243-V states that a person shall be disqualified for being chosen as and for being a member of the municipality under the following conditions:

1. If he is so disqualified by or under any law for the time being for the purposes of elections to the legislature of the state concerned
2. If he is so disqualified by or under any law made by the legislature of the state

However, a person shall not be disqualified on the ground that he is less than 25 years of age or if he has attained the age of 21 years. Thus, a person who is already 21 years old is eligible for being chosen as a member of a municipality.

Power, authority and responsibilities of municipalities

Under Article 243-W, the legislature of a state, subject to the provisions of this constitution, is directed by law to endow:

1. The municipalities with such powers and authority as may be necessary to enable them to function as institution of self government and such law may contain provisions for the devolution of powers and responsibilities upon municipalities, subject to such conditions as may be specified therein, with respect to:
 - (i) The preparation of plans for economic, political social development
 - (ii) The performance of function and implementation of programmers and schemes as per law
2. The committees with such powers and authority as may be necessary to enable them to carry out the responsibilities

NOTES

conferred upon them including those in relation to the matter listed in the twelfth schedule.

NOTES

2.3.2 Types of Administrative Structures for the City Governance

It is held in literature that four major types of administration structures could be found in the context of cities with respect to the division of responsibilities (Pinto 2000) which are discussed briefly as under:

1. Weak Mayor-Council Structure
2. Strong Mayor Council Structure
3. Commission System
4. Council – Manager System

1. The Weak Mayor Council Structure

The Weak Mayor Council Structure is one of the first types of administrative structure of modern industrial era as shown in figure 2.1. In this structure, the Mayor can suggest legislation and is empowered with policy making functions while administrative functions are vested in a Council through an elaborate committee system. Both the Mayor and Council as well as local officials are elected. This brings in both the political legitimacy and the scope for professional performance.

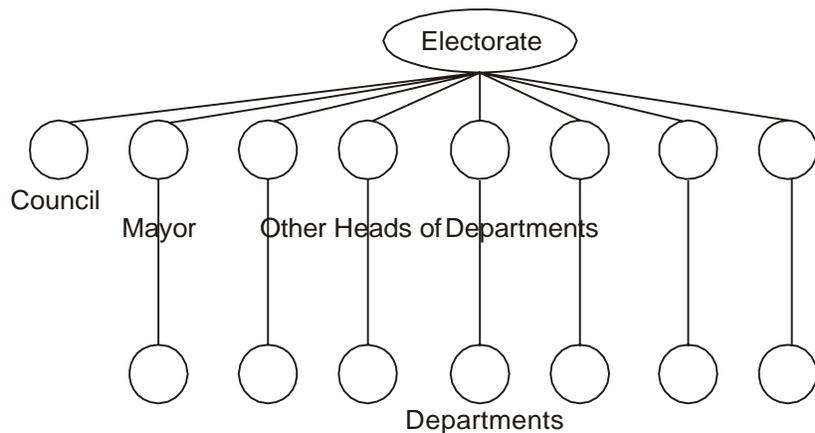


Fig. 2.1 The Weak Mayor-Council Structure

2. The Strong Mayor Council Structure

This has similarity to the earlier structure but in this case, the Mayor and the Council are directly elected. Here, the Mayor commands supreme control over the administration and goes synonymous with presidential form of political governance. The Mayor is powerful as he combines political as well as administrative leadership and the Council becomes an examining body of his/her actions, policies and programmes.

NOTES

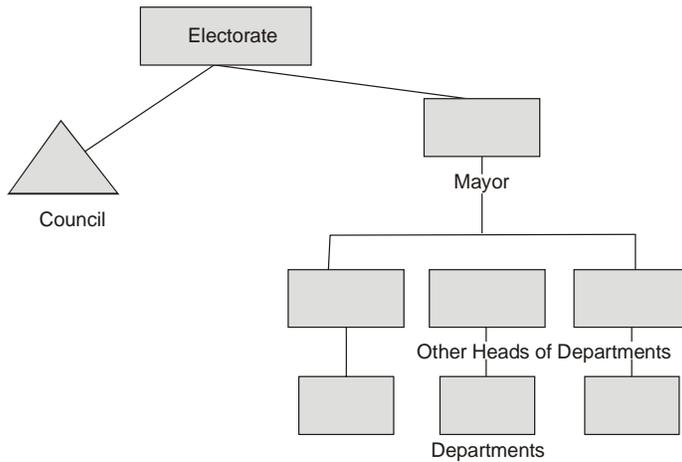


Fig. 2.2 The Strong Mayor Council System

An alternative of this model is the Mayor-Manager or Mayor-Chief Administrative Officer type, under which the Mayor appoints an officer to assist him in the administration of departments. The Manager/ Chief Administrative Officer is the chief of the department heads.

3. The Commission System

This type of administrative structure as shown in figure 2.3 was borne out of the experience of city of Galveston, Texas, USA. A commission is given the responsibility of city affairs with the Commissioners acting as full-time paid administrators and legislators. It works competently in a small city, but is not considered appropriate for large cities, given the weaknesses of inability to cope with pressures as well as complexities in development and administration.

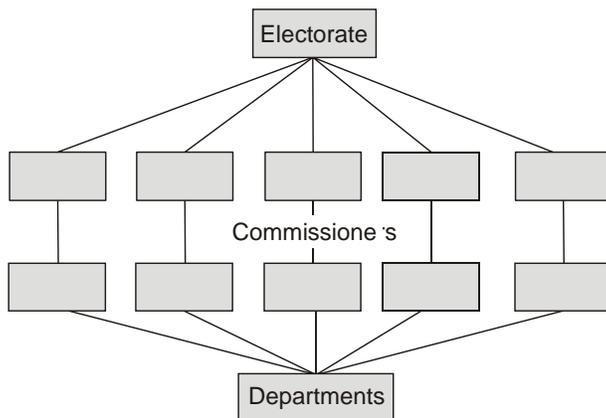


Fig. 2.3 The Commission System

4. The Council-Manager System

The Council-Manager System (figure 2.4) makes the elected Council responsible for policy making as well as administration, under a professional manager, who is responsible to the council. The Manager

is appointed by the Council and serves during his tenure with the elected body being the deliberative, reviewing, annulling and monitoring body.

NOTES

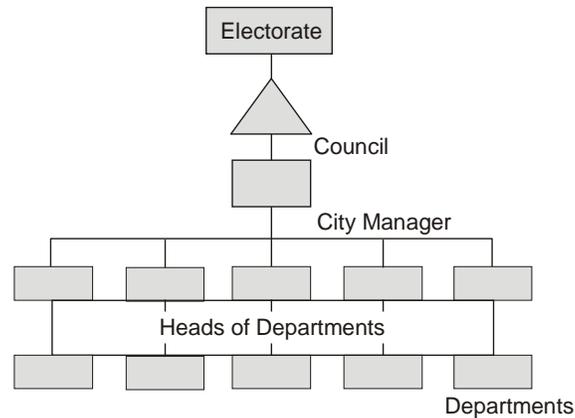


Fig. 2.4 The Council Manager System

The above models present the different structures for the administration of urban areas, which particularly find support in the case of cities upto a certain size of population and area. The choice of the model is ascertained to a great extent by the historical past of political values and preferences. These structures are guided by some amount of inputs of representatives of citizens, intelligentsia and professionals in shaping the outcomes.

But, much of the outcomes on city space are a result of the interactions of administrative structure, organization, principles, values and efficiency. In practice, there are not many types of administrative structures found in India. Mumbai, Delhi and Chennai are the three major metropolitan cities in India which are following a Commissioner led administrative system with the Council as the political wing. Many other cities in India are also following this system except Kolkata, which has adopted Mayor in Council administration system.

The Commissioner led administrative system started by Mumbai is based on the principle of division of functions into (a) policy and regulation functions delegated to the deliberative wing of elected councilors and (b) administration and executive powers to the Commissioner and the heads of departments. This design led to several conflicts although it appeared to be convincing. The Mayor Council System in Kolkata seems to be working fine but yet it has to face the test of political clashes. Mumbai has had Mayor Council system for a very short period and reverted to the Commissioner led city administration. Delhi and Chennai also have more or less similar administrative structures like that of Mumbai.

With the population accumulating in urban areas outside the limits of the municipality, the physical and functional associations become important at the metropolitan region level and so do the establishment and governance of metropolitan authorities. Metropolitan urban

governance has to implement the existing models of urban governance in agreement with the metropolitan spatial structure and also form coordinating institutional mechanisms for both planning and service delivery in place. The Indian models of metropolitan urban governance have been discussed in detail below.

2.3.3 Indian Models of Metropolitan Urban Governance

Let us discuss some important models of metropolitan urban governance in India.

1. Kolkata Metropolitan Development Authority Constitution

Kolkata Metropolitan Development Authority (KMDA), originally formed under a Presidential Ordinance in 1970, is currently the statutory planning and development authority for the Kolkata Metropolitan Area (KMA) under the provision of the West Bengal Town and Country (Planning & Development) Act, 1979. KMA is the oldest and second largest metropolis in India that now extends over 1,854 sq km area with a population of more than million; it has 41 contiguous urban local bodies and 100 odd rural local bodies. KMA has always demonstrated a multitude of developmental challenges and yet has shown some innovations. Kolkata Metropolitan Planning Committee (KMPC) in West Bengal, constituted on 19th October, 2001 under Metropolitan Planning Committee Act 1994, has been the first Metropolitan Planning Committee (MPC) in India following the 74th Constitutional Amendment Act, 1992. KMDA is the Technical Secretariat to KMPC, being the first of its kind in India, composed under West Bengal Metropolitan Planning Committee Act, 1994.

Profile

Kolkata City, with 41 adjoining urban local bodies and 100 or so rural local bodies, has some of the planning interventions and physical infrastructure development cut across the boundaries of local bodies. Such a planning exercise required a metropolitan wide planning body to administer it. The state government passed the West Bengal Metropolitan Planning Committee Act, 1994 for the purpose of decentralized spatial and socio-economic planning in Kolkata. The Act provided for the constitution of Kolkata Metropolitan Planning Committee (KMPC) in order to prepare the draft development plan for the metropolitan area as a whole by combining the development plans of its constituent municipalities and village councils.

In the Kolkata Metropolitan Area (KMA), two-thirds of the committee is elected from among the elected members of the 41 Municipalities and around 100 Chairpersons of the village councils. Another one-third of the committee is comprised of nominated representatives of the Government of India, the state government and the organizations and institutions relating to urban development and infrastructure. After the enactment of the Act, it took seven years for the KMPC to be formed

NOTES

NOTES

and start operating. The KMPC is made up of 60 members which includes 40 elected and 20 nominated members. KMDA has been confirmed as the Secretariat of KMPC and the Secretary of KMDA has been appointed as the Secretary of the KMPC.

Functions

The KMPC gives a participatory and democratic platform for metropolitan planning which till now was the realm for experts and administrators only. West Bengal's attempt is praiseworthy as it has tried to include representatives of every area in KMPC, which will deal with crucial matters such as formulation of metropolitan vision, capital investment and metropolitan level advocacy. The Kolkata MPC is responsible for preparing: (a) Perspective plan (25 years) (b) Draft Development Plan (Five yearly) (c) Annual Plan for Implementation.

Structure

The structure representing the administration and governance of KMA is outlined in figure 2.5.

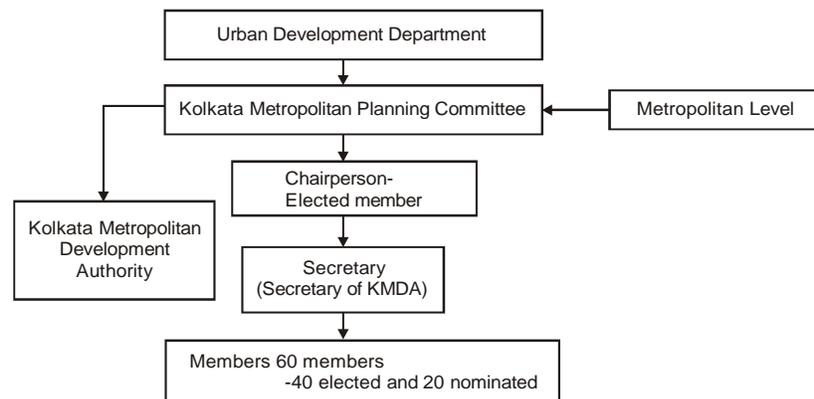


Fig. 2.5 Structure of Administration of Kolkata Metropolitan Area

2. Mumbai Metropolitan Region Development Authority (MMRDA) Constitution

The Mumbai Metropolitan Region Development Authority (MMRDA) was established on 26 January 1975 (earlier known as Bombay Metropolitan Region Development Authority) under the Bombay Metropolitan Region Development Authority Act, 1974 by the Government of Maharashtra. The MMRDA is an apex body responsible for planning and coordinating all development activities (including the provisioning of major physical infrastructure) in Mumbai Metropolitan Region (MMR). It vigorously works in coordination with the local (Bombay) and State governments, and other quasi-government agencies.

Jurisdiction and mandate

The MMR jurisdiction spreads over 4355 sq km covering the city of Greater Mumbai and its hinterland comprising mostly parts of Thane and Raigadh districts. It contains:

- (i) five municipal corporations
- (ii) fifteen municipal councils
- (iii) several *gaothans*/villages

The MMRDA plays the central role in steering the development of region in the form of:

- preparing perspective development plan for the region encompassing all major aspects
- modulating the development of the region through zoning and development controls
- supporting the development of the region through infrastructure creation, expansion and strengthening
- organizing the development activities of all organizations related with development or management of any aspect or sub-region

Organization and governing principles

The organization/structure of MMRDA comprises three bodies:

- The highest policy making body is the Authority consisting of 17 members and is chaired by the Minister for Urban Development, Government of Maharashtra
- The Executive Committee provides technical guidance and supervision. It contains 6 state government members and three expert members, and is chaired by the Chief Secretary of the state government
- The Metropolitan Commissioner is appointed by the state government and heads the office of the MMRDA which includes 6 functional divisions with their own divisional chiefs

MMRDA is regarded as an apex institution responsible for planning and administering the city and its environment. It functions on the following guiding principles:

- It identifies the distinction between policy-making and policy-execution
- It assigns the policy-making function to the council and policy-execution to a single individual. i.e., the commissioner
- It makes the commissioner more or less independent of the Corporation though the two have to work in close cooperation

Strategy and funding

MMRDA aims to attain the goal of a balanced development of the region through the following strategies:

- Preparation of perspective plans
- Pro motion of alternative growth centres
- Strengthening of infrastructure facilities
- Provision of development finance

NOTES

NOTES

The MMRDA, for the purpose of implementing these strategies, prepares plans, formulates policies and programmes and helps in directing investments in the region. In particular, it envisages, promotes and supervises the key projects for developing new growth centres and boosting improvement in sectors like transport, housing, water supply and environment in the region. It also reproduces information pertaining to socio-economic profile of households, patterns of economic development and transport through surveys and commences projects that give a regional overview in the strategic areas. Additionally, if a project is of specific importance, the MMRDA takes up the responsibility for its implementation. One such project undertaken by it is developing the Bandra-Kurla Complex.

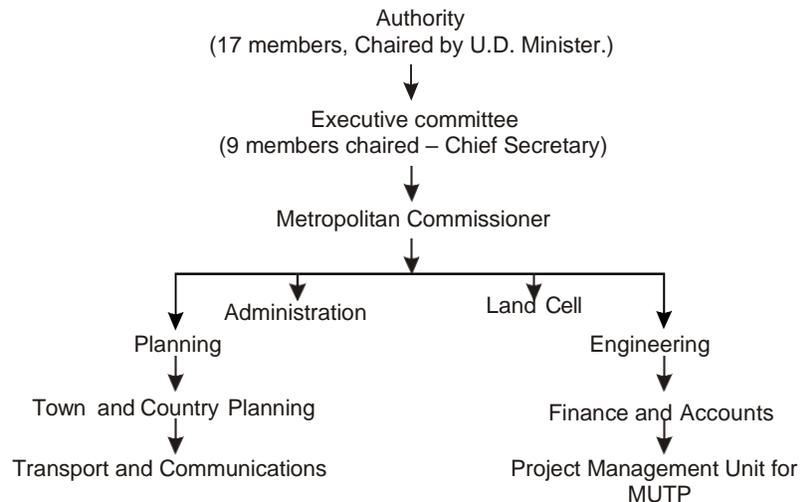


Fig. 2.6 Structure of MMRDA, Mumbai

The MMRDA has generated a master plan for developments in the region till the year 2011. It has also undertaken some of the major infrastructure creation/ expansion projects with the financial assistance of external agencies. A huge chunk of its revenue comes from the disposal of land in the Bandra-Kurla complex. It regulates a reserve fund for financing infrastructure projects and also provides loan facilities for such projects.

MMRDA also decided to prepare a Comprehensive Transport Strategy for the entire metropolitan region in order to emphasize its investments in infrastructure projects and improve the metropolitan transport.

An important aspect of the MMRDA is that it not only functions as a metropolitan planning agency but also embarks on development projects either independently on its own or in association with other concerning organizations. It seeks funding support from state government, multilateral agencies and development agencies. It has been executing the mega projects to develop physical infrastructure, transport and commercial or recreational activities with the support of agencies.

3. Bangalore Metropolitan Regional Development Authority

Bangalore Metropolitan Region Development Authority (BMRDA) is a self-governing body formed by the Government of Karnataka under the BMRDA Act 1985 for the purpose of planning, coordinating and supervising the proper and orderly development of the areas within the Bangalore Metropolitan Region (BMR) which consists of Bangalore urban district, Bangalore rural district and *Malur taluk* of Kolar district.

Structure

The Chief Minister heads the BMRDA as Chairman and the Minister of Urban Development functions as Vice-Chairman and the other members are the Chairmen of various development agencies in Bangalore, senior officers and heads of departments. The member secretary is the Metropolitan Commissioner. BMRDA contributes primarily in the evolution of urban development polices in the Bangalore Metropolitan Region (BMR) and it acts as an umbrella organization for the planning authorities setup in the region (see figure 2.7 for structure).

BMRDA is responsible to coordinate the activities of various concerned bodies such as Bangalore Mahanagar Palika, Bangalore Development Authority, the Bangalore Water Supply and Sewerage Board, the Karnataka Slum Clearance Board, the Karnataka Power Transmission Corporation Ltd., the Karnataka Industrial Areas Development Board, the Karnataka State Road Transportation Corporation and such other bodies as or connected with developmental activities in BMR.

The entire Bangalore Metropolitan Region (BMR), as per the structure plan, is divided into five Area Planning Zones (APZ) and six Interstitial Zones (IZ). The proposed APZs are Bangalore – Bidadi, Bangalore – Nelamangala, Bangalore – Devanahalli, Bangalore – Whitefield, Hoskote, Bangalore – Anekal, Sarjapur – Hosur.

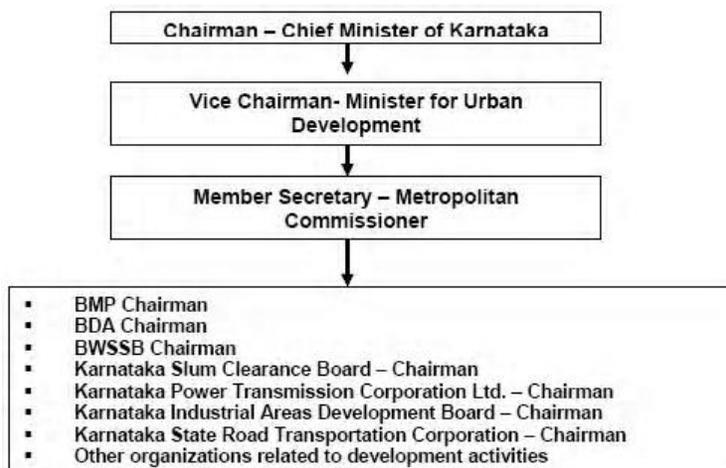


Fig. 2.7 Structure of BMRDA

NOTES

NOTES

4. Chennai Metropolitan Development Authority

Constitution and jurisdiction

The Chennai Metropolitan Development Authority (CMDA) is a statutory body set up under Town & Country Planning Act 1971. In 2001, the population of the city of Chennai had crossed 42 lakhs and it became one of the megacities in India. The city’s population is expected to reach the 48 lakh mark in 2011.

The Chennai Metropolitan Area includes the city and its adjoining urbanized area covering 1177 sq km. The Chennai City, 8 Municipalities, 10 Panchayat Unions come under its purview. These challenges must be overcome through the policy of Metropolitan Development of Chennai and appropriate solutions must be found. The CMDA, in its effort, to transform the policies of Government into reality has recommended a number of measures to improve traffic and transportation, to create infrastructure and to upgrade existing civic services.

Function and structure

The function of CMDA is to supervise the overall planning and coordination in CMA and it is dedicated to deliver services to the citizens. The structure of CMA (shown in figure 2.8) consists of the Chairman (political head), Vice Chairman, Member Secretary and CEO (all of them being in civil service) and a Board of Directors comprising departments, municipal corporations, parastatals and elected representatives.

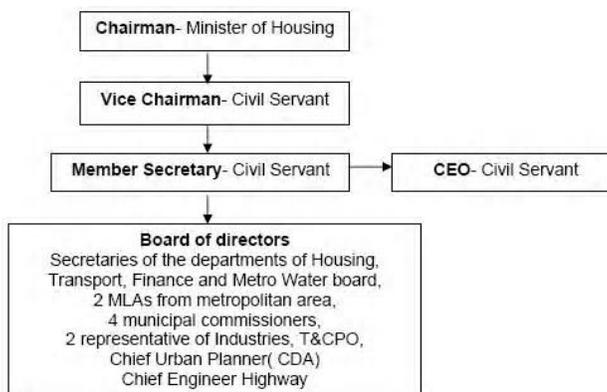


Fig. 2.8 Structure of CMDA, Chennai

2.3.4 District Planning Committee

The constitution of District Planning Committees (DPCs) is mandatory under article 243ZD of the Constitution and is a common item for both Panchayats and Municipalities. The District Planning Committees are to take up integrated planning for urban and rural areas in the District. As urbanization increases, the need for such an integrated planning will become more important. Town and the country have to share the various physical and economic resources of the district such as communications, water resources and market places. Allocation of

water for irrigation, drinking or industry is already a contentious issue in many districts. Dealing with each other's wastes is another serious problem. The sugar mill and distillery wastes of numerous small, medium and large units in western Uttar Pradesh, or the textile and dyeing units in Rajasthan, Gujarat or Andhra Pradesh fouling and poisoning water courses are a well known phenomenon. Municipal solid wastes-be they chemicals, plastics, hospital wastes or other debris-spill over into the countryside and find their way into neighbouring streams. Agricultural lands at the fringe of towns, large or small, are increasingly prone to conversion. These are problems that need understanding and response, not in a distant State headquarter but within the local area. The district needs a platform to umpire and resolve these issues. The Zila Parishad and District Planning are an important process for this purpose. Planning should be an obligatory function of Panchayats and municipalities. Such plans at the local level are the building blocks for a district plan. District planning itself should be an integrating process.

NOTES

Composition

While the composition of the DPC and the manner in which the seats are to be filled have been left to the States, article 243ZD stipulates that four-fifths of the total number of members of DPC will 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 rest are to be nominated.

While most States have made enabling acts to constitute District Planning Committees, very few have actually constituted them. This is because of both political apprehensions and bureaucratic problems. First is the fact that the provisions on District Planning are to be found in the 74th rather than in the 73rd Constitutional Amendment. Rural Development departments in the various State Governments have traditionally regarded district level planning as falling in their domain but since they find that the provisions for the DPC are now a part of the 74th Constitutional Amendment, under the Part IXA relating to Municipalities, their reaction sometimes has been that these Committees are the concern of the Urban Development or Municipal Affairs department in the State. These departments, on the other hand, do not have a clue about the objectives and purposes of the District Planning Committee and expect that some other department like Planning, will take care of it. The result is that the item often became orphaned between disinterested departments. The political apprehension is about the DPC emerging as a dominant body deciding on public investments and thus reducing the influence and patronage of State level political leaders.

DPC and Zila Parishad

A second unresolved issue has been the relationship between the Zila Parishad and the DPC. The amended Constitution envisages the DPC

NOTES

as a stand alone entity. While article 243ZD provides for members of a DPC to be elected by and from amongst the elected members of the Zila Parishad and of the municipalities in the district, it does not specify the relationship between the Zila Parishad and the DPC. It is pertinent to mention here that this aspect was well understood and specifically addressed in the 65th Amendment Bill, 1989. Article 243Y proposed in that Bill stipulated that the DPC should be constituted “in every Panchayat at the District level”. Proposed clause (3) of the article also laid down that the “Chairperson of the Panchayat at the district level shall be the chairperson of the Committee”. The locus and stewardship of the DPC as part of the district Panchayat or Zila Parishad was thus established beyond doubt. Unfortunately, article 243ZD of the Constitution as enacted has allowed serious ambiguities to persist.

The State Governments have, therefore, been left to draw their own interpretations. In Assam, Karnataka, Kerala, Rajasthan and West Bengal the State laws envisage the DPC as a part of the Zila Parishad. The Chairperson of the Parishad is also designated as Chairperson of the DPC. In Madhya Pradesh, a Minister of the State Government is the Chairperson of the DPC and is expected to lead and guide district planning with the help of the district administration. The Chairperson of the Zila Parishad is a Vice-Chairman. Gujarat and Maharashtra have long had District Planning and Development Committees with a minister of the State Government as the Chairperson. The view of these two Governments has been that these district committees are an adequate substitute for the DPCs. The table below indicates the varied arrangements in different States.

The designation of a Minister as the President of the DPC virtually makes it an extension of the State Government and goes against the intent of the Constitution. It also defeats the principle of decentralization. Even before independence District Boards were perceived and set up as important centres of decentralization. In Karnataka, Maharashtra, Gujarat and Rajasthan, the Zila Parishads set up during the first initiatives of decentralization enjoyed considerable autonomy and powers. The District is the first major level where the demand for local autonomy and the desire for State control are likely to come into conflict. Similar fears surfaced during the 1970s when the Zila Parishad became prominent and powerful in Karnataka, Gujarat and Rajasthan. These fears and apprehensions continue to hold sway and if the highly varied arrangements in the different States continue to prevail, the Constitutional intent in establishing district level Panchayats and district planning process will be defeated. To quote ‘Panchayati Raj without district planning might be a somewhat hollow shell, even as district planning without Panchayati Raj would be unrepresentative’. This observation of Late Rajiv Gandhi was only a reflection of the consensus held by stalwarts of the Panchayat movement like Ashok Mehta, Abdul Nazir Sab. Ramkrishna Hegde or Nirmal Mukherji.

NOTES

In the case of Madhya Pradesh it has been claimed that the District Planning Committee is really a step forward towards the establishment of a district government. The DPC has been given the powers to supervise and monitor district level schemes undertaken by different departments of the Government. Amended in 1999, the DPC Act of 1995 has also given to it the powers of administrative approval and financial sanctions subject to some limits. The DPCs have also been entrusted some other functions previously performed by the State Government in respect of urban areas such as delimitation of municipal wards, land acquisition, etc. However, in keeping a Minister of the Government as the Chairman of the DPC and the District Collector as the Secretary, the DPC has emerged as a body distinct from the Zila Parishad exercising more powers on behalf of the State Government. It is not the intent of the Constitution that the DPC should emerge as a super body at the district level dominating even the Zila Parishad. To that extent the intent and working of the DPC in MP needs careful watching.

District planning process

The extensive arrangements for decentralized planning which have been made in Kerala particularly in the case of Panchayats at different levels have been well documented and discussed in various sources. So far as the DPC is concerned the State Planning Board and the NGOs have also helped to identify and provide district level resource persons with the required professional background. The DPCs guide the intermediate and village level Panchayats in the preparation of their own plans and the approval of the plan is the responsibility of the DPC though it cannot change the priorities determined by the PRIs in the district.

In October 1998 Maharashtra enacted a separate District Planning Committee Act. The Act provides for a Minister of the State Government to be the Chairperson of the DPC with the President of the Zila Parishad, its CEO, the Divisional Commissioner and the Collector of the District as ex-officio members. The Act also stipulates that the Collector shall be the Member Secretary. The Maharashtra Government has thus confirmed its past approach prior to the Constitutional Amendment, of treating Zila Parishads as just one of the local bodies rather than a body which should take the lead in district planning.

In West Bengal, the organizational arrangements are similar to those in Kerala though there has been no supporting programme for identifying resource persons and training PRI and Municipal staff in planning. West Bengal has also revived a previous practice of District Planning and Development Coordination Committee (DPDCC) presided over by a Minister of the State Government. Though the President of the Zila Parishad continues to be the Chairman of the DPC, the DPC is expected to consult the DPDCC. Here again the arrangement appears to be a dilution of the position of the Zila Parishad.

NOTES

In Rajasthan, DPCs have been formed in all the districts with the President of the Zila Parishad as the Chairperson and the Chief Planning Officer of the district who is a functionary of the Zila Parishad as the Secretary. In UP and Karnataka the DPCs have been set up but they are not functional. In Tamil Nadu until recently the DPC was perceived and operated as a non PRI body with the Collector as the Chairman and the Zila Parishad President as the Vice Chairman. Recently, the position has been changed with the President of the District Panchayat designated as the Chairman of the DPC.

The highly varied organizational and operational arrangements for the DPC confirm the fact that the provisions of the Constitution have remained very poorly understood and very badly implemented. Where the DPC has not been located within a Zila Parishad the ownership of the process itself has been left to doubt. The induction of a State Government Minister appears to be a deliberate attempt to dilute the position of the district level Panchayat and forestall possible attempts of that Panchayat to assert its preeminence as a distinct body of elected representatives. The operational arrangements for the preparation of a district development plan and merely forwarding it to the State Government also reduces it to a paper exercise. If, on the other hand, district level planning becomes multi sectoral and inter-departmental and also covers project allocation, monitoring and supervision and if that district level planning becomes a part of the Zila Parishad's responsibilities it would undoubtedly enhance the Parishad's power and influence.

As presently worked, the Panchayat at the District level or the Zila Parishad is construed as a Zila Rural Parishad. The reality is that a District is an important administrative entity and its jurisdiction covers both the rural and the urban. Its composition should reflect the character of the district as a whole. Its territorial constituencies should, therefore, comprise all parts of the district. Such a Parishad will truly be a Panchayat representing the district as a whole. District Planning has to be one of its firm and continuing responsibilities.

The Panchayats at the district level, in other words, the Zila Parishad is to be composed principally of representatives elected from territorial constituencies. As suggested above these territorial constituencies should cover the district as a whole. We have suggested in an earlier section [see para 1.40.2 (b) above] the need to adopt a building block approach in the preparation of the electoral rolls as well as the composition of both Panchayats and municipalities. The basic electoral unit will, therefore, be the territorial wards which elect representatives to the village Panchayat. A certain number of these Panchayat wards can then be grouped into wards for intermediate level Panchayats i.e. Panchayat samitis. For urban areas we have urged earlier, the formation of Wards Committees for each municipal ward or groups of wards to comprise representatives elected from territorial constituencies into

which a municipal ward area will be devised. This will be the basic building block. A certain number of these blocks can then be grouped into a municipal ward. If there are no Wards Committees comprise of representatives elected for this purpose, then the municipal ward itself becomes the building block. The territorial constituencies of the Zila Parishad will then be a grouping of Panchayat samiti as well as municipal wards. In delimiting the Panchayat samiti wards the State laws should provide that any given village Panchayat should form part of a Panchayat samiti wholly and not be split. Similarly the constituencies for Wards Committees will be grouped in their entirety within a given municipal ward. By the same principle a Panchayat samiti ward or a municipal ward should form part of a Zila Parishad constituency wholly and not be split.

MPs/MLAs and DPC

The representation of MPs and MLAs is a related item. Both the 73rd and the 74th Amendments specifically enable State Legislatures to provide for their representation in Municipalities and Panchayats. It makes far more sense and can be of much more value if the participation of MLAs and MPs is secured in District Planning. Two alternatives can be considered in this regard. One is for the MPs and MLAs to be the honoured invitees of the DPC and contribute to its deliberations without having to be its formal members. The alternative is to provide for their representation in the DPC by specifying its composition.

At present under article 243ZD, four-fifths of the total number of members of DPC are to be elected by, and from amongst, the elected members of the Panchayat at the district level (the Zila Parishad in other words) and of the Municipalities in proportion to the ratio of the rural and urban populations. This component can be changed to three fifth of the total number. One fifth can be elected by and from amongst the MLAs and MPs from the district. Out of these the number of MPs can be fixed as two. The participation of the MPs and MLAs should be in person and not through agents as allowed in M.P. The remaining one fifth of the DPC members should be the representatives of such organizations and institutions as the State Government may consider necessary for carrying out the functions assigned to the DPC. This is important because within a district there will be important institutions representing industry, trade and commerce, NGOs, professionals, etc., who will be in a position to make valuable contributions to the process of district planning. At present, article 243ZD does not contain a provision for this purpose. So far as officials of the Government and Government's agencies are concerned, they should be nominated by the State Government, ex-officio, to participate in the DPC but without being formal members.

NOTES

**Legal changes suggested by the National Commission to Review
the Working of the Constitution (NCRWC)**

NOTES

The NCRWC has suggested the following legal changes:

- (a) As per the definitions given in article 243, 'district' means a district in a State while 'Panchayat area' means the territorial area of a Panchayat. The Panchayat at the district level should, therefore, be for the district as a whole instead of the rural areas only. The definitions under article 243 should be amended accordingly. Clause (1) of article 243 ZD should be amended to stipulate that the District Planning Committee shall be constituted within the Panchayat at the district level or Zila Parishad.
- (b) Sub-clause (d) of clause (2) of article 243 ZD should be amended to provide for the Chairperson of the Panchayat at the district level to be the Chairperson of the District Planning Committee. The Chairperson of the largest Municipality in the District should be the Vice-chairman.
- (c) In clause (1) of 243ZD, the words "consolidate the plans prepared by the Panchayats and Municipalities in the district" should be omitted so that the DPC's main task of preparing a draft development plan for the district is not contingent or dependent on individual plans prepared by the Panchayats and the Municipalities. However, clause (3) of article 243ZD can provide that in preparing the development plan the DPC will have regard to such plans as are prepared by the Panchayats and the Municipalities. Zila Parishad should help Panchayats and municipalities to prepare these plans which will serve as building blocks for preparation of Development Plan for the district.
- (d) Article 243ZD should also contain a provision to enable the State laws and State Governments to entrust additional responsibilities as monitoring of development schemes and programmes in the district, coordination of their implementation including powers to modify sanctions to ongoing schemes subject to limits.
- (e) The Zila Parishad should be the technical and administrative secretariat for the DPC independent of and distinct from the District Collector or the District Magistrate.
- (f) The State laws should provide for association and involvement of government and non-government agencies and professionals in the DPCs. MPs, MLAs and Ministers desiring to participate in the District Planning Committee should be welcome as invitees.
- (g) State agencies, district agencies and district administration should assist the DPC with data and technical know-how in preparation of the development plan for the district. State laws should provide for this.
- (h) Where Metropolitan Planning Committees (MPCs) are required to be set up, State laws and regulations should determine the

functional and territorial jurisdiction of the DPCs as distinct from the MPCs. Where Metropolitan Planning Committees exist for predominantly urban districts, they should be deemed as DPCs, as no separate DPC is necessary.

2.3.5 Metropolitan Planning Committee (MPC)

Rationale

According to the 1991 Census, we have 23 metropolitan areas in this country each with a population of 10 lakhs or more. When the Census figures 2001 are released, the number of such cities is likely to exceed 40. These areas are agglomerations administered by several municipalities. Even Greater Mumbai though it is called by that name does not cover all of the Mumbai Metropolitan area. Thane, Bhiwandi, Ulhas Nagar or Navi Mumbai are all different corporations. These multi-municipal urban agglomerations have reached their present dimension and configuration over a period of time. Growth has overrun traditional boundaries. Initially the boundaries of the central city could be extended two or three times as in the case of Mumbai but after that, such extensions were resisted. Surrounding municipalities were not prepared to give up their jurisdictions. The Calcutta Metropolitan area now comprises three corporations, thirty-four municipalities and numerous non-municipal urban localities. The metropolitan areas of Chennai, Bangalore, Mumbai and Hyderabad cover ten to thirty municipal jurisdictions. In Delhi. Nominally there are only three-the Cantonment, the NDMC and the Delhi Municipal Corporation (MCD). But the MCD itself is a leviathan covering nearly 1600 sq. km and stretching across vastly different localities such as Shakur Basti, Rohini and Greater Kailash. World experience has shown that devising a system of governance reconciling local autonomy with a metropolitan perspective has not been easy. Their size, the scale and complexity of problems, are formidable. Because the tasks are numerous, multiple organizations for their discharge become inevitable. Besides many of these mega cities are also the seat of Central or State Governments and their presence is conspicuous.

While the municipal corporations or the municipalities comprised in these agglomerations may be zealous of their respective domain, the agglomeration itself needs a metropolitan wide perspective, planning, advocacy and action, Sources of water, disposal of waste, traffic and transport, drainage, abatement of air pollution, etc., are examples of items where one city corporation or the municipality alone cannot achieve much in isolation. The B.E.S.T which is part of the BMC for instance, however, competent it may be, cannot do much about public transport in Mumbai if the Ministry of Railways handling the suburban system does not subscribe to a common plan. The Government of India's Ministry of Environment or Maharashtra's State Pollution Control Board cannot do much to mitigate pollution without BMC's active

NOTES

NOTES

collaboration. Above all, the maintenance of the infrastructure to keep the mighty economic machine of Mumbai going is a task requiring much interaction and collaboration between the Central, State and local governments, the public and the private sector, industry, commerce and the citizenry. The Metropolitan Planning Committee was envisaged as an inter-institutional platform for similar purposes.

Metropolitan areas are also the main engines of growth and economy in the country. Urban transport, water-supply, waste management, police, public health, etc., require metropolitan level planning, implementation and coordination. Besides the scale of services needed in these metropolitan areas is huge and it is not possible for City corporations or Municipalities to address all of them. The suburban railways or metropolitan transport systems as in Calcutta, Mumbai or Chennai are handled by the Ministry of Railways. The ports in these cities have a separate set-up. Metropolitan Development Authorities or Departments of Metropolitan Development in the State Government cannot be an adequate answer for these multi-municipal problems. Since the 74th Constitution Amendment, Mayors and Municipal Chairpersons are moving increasingly to assume executive leadership for managing their respective areas. A bureaucratic set up cannot bring these elected representatives and leaders together at the metropolitan level.

The reasons for this sorry State of affairs are a mixture of bureaucratic confusion about the purpose and role of the MPC, lack of political interest and, most importantly, the fear of the Development Authorities, which exist in most of these twenty-three cities that their domain will be undermined. While the Calcutta Metropolitan Development Authority itself was brought about in special circumstances- more for mobilizing funds and coordinating implementation-most of the development authorities in the other cities were inspired by the Delhi Development Authority model of large scale land acquisition, real estate development and housing construction. Eventually these bodies became conspicuous empires of public works and patronage as in Bangalore, Hyderabad or Jaipur. The creation of these authorities was no doubt facilitated by the fact that most of the city corporations concerned were under super cession as was the case in Chennai and Calcutta. In the case of greater Bombay consistent opposition from the Corporation limited the BMRDA mandate to some broad areas of planning control and coordination and selected real estate activities. The Calcutta Authority also eventually became a huge amalgam of public works. State Governments have been rather apprehensive about the large staff which these development authorities have acquired over a period of time, which would become surplus in the event separate Metropolitan Planning Committees are established. This is a totally mistaken perception. The Metropolitan Planning Committee is expected to be a high level, democratically set up body,

which will bring a constitutional mandate to the whole exercise of metropolitan development planning. The development authorities could serve these Metropolitan Planning Committees as their technical secretariat.

Another misconception is about the possible conflict of jurisdiction between MPCs and DPCs. Since metropolitan areas are predominantly urban, the rural or the Panchayat component in the MPCs would be rather small. Where the urban areas are co-terminus with revenue districts, such as Bangalore, Chennai or the Calcutta urban district, the problem does not arise at all. In such cases a DPC is not necessary. Where a part of a revenue district is included in a metropolitan area, State Governments can suitably redefine the boundaries for the purpose of DPC and MPC work. Alternatively, a functional delineation is also possible. The Tamil Nadu Government attempted to do this by providing that the MPC for the Chennai metropolitan area will be deemed to be a DPC for those portions of the revenue districts which are included in the metropolitan area. Under the Constitution it is up to the State Governments to determine the jurisdiction of the DPC and the MPC to avoid conflicts, if any.

In the composition for MPC it is envisaged that one-third of its members are to be elected by and from amongst the elected representatives of urban and rural local bodies in the metropolitan areas. The others are to be nominated, representing Central Government agencies and various State Government agencies, other organizations and institutions responsible for various services in the metropolitan areas. More importantly, the nomination also enables representatives of the private sector and community at large to be mobilized. The manner of choosing the Chairperson of the MPC, and the planning and coordination functions to be entrusted to it is left to the State Legislature. In preparing the draft development plan the MPC should have due regard to the plan prepared by the Municipalities and the Panchayat, matters of common interest to them, objectives and priorities of the Government of India and the State Government, available financial and other resources for integrated development of infrastructure, environmental conservation, etc. The MPC is expected to hold wider consultations with different institutions and organizations. The Metropolitan Planning Committee is envisaged as an Inter-governmental and Inter-organizational forum for providing a vision, a strategy and a metropolitan wide development plan.

Failure to set up MPCs

Not a single state in India has set up an MPC so far. The reasons for this sorry State of affairs are a mixture of bureaucratic confusion about the purpose and role of the MPC, lack of political interest and most importantly, the fear of the Development Authorities, which exist in most of these twenty-three cities that their domain will be undermined. While the Calcutta Metropolitan Development Authority itself was brought about

NOTES

NOTES

in special circumstances-more for mobilizing funds and coordinating implementation-most of the development authorities in the other cities were inspired by the Delhi Development Authority model of large scale land acquisition, real e-State development and housing construction. Eventually these bodies became conspicuous empires of public works and patronage as in Bangalore, Hyderabad or Jaipur. The creation of these authorities was no doubt facilitated by the fact that most of the city corporations concerned were under super cession as was the case in Chennai and Calcutta. In the case of greater Bombay consistent opposition from the Corporation limited the BMRDA mandate to some broad areas of planning control and coordination and selected real estate activities. The Calcutta Authority also eventually became a huge amalgam of public works. State Governments have been rather apprehensive about the large staff which these development authorities have acquired over a period of time, which would become surplus in the event separate Metropolitan Planning Committees are established. This is a totally mistaken perception. The Metropolitan Planning Committee is expected to be a high level, democratically set up body, which will bring a constitutional mandate to the whole exercise of metropolitan development planning. The development authorities could serve these Metropolitan Planning Committees as their technical secretariat.

Another misconception is about the possible conflict of jurisdiction between MPCs and DPCs. Since metropolitan areas are predominantly urban, the rural or the Panchayat component in the MPCs would be rather small. Where the urban areas are co-terminus with revenue districts, such as Bangalore, Chennai or the Calcutta urban district, the problem does not arise at all. In such cases a DPC is not necessary. Where a part of a revenue district is included in a metropolitan area, State Governments can suitably redefine the boundaries for the purpose of DPC and MPC work. Alternatively, a functional delineation is also possible. The Tamil Nadu Government attempted to do this by providing that the MPC for the Chennai metropolitan area will be deemed to be a DPC for those portions of the revenue districts which are included in the metropolitan area. Under the Constitution it is up to the State Governments to determine the jurisdiction of the D PC and the MPC to avoid conflicts, if any.

In the composition for MPC it is envisaged that one-third of its members are to be elected by and from amongst the elected representatives of urban and rural local bodies in the metropolitan areas. The others are to be nominated, representing Central Government agencies and various State Government agencies, other organizations and institutions responsible for various services in the metropolitan areas. More importantly, the nomination also enables representatives of the private sector and community at large to be mobilized. The manner of choosing the Chairperson of the MPC, and the planning and

coordination functions to be entrusted to it is left to the State Legislature. In preparing the draft development plan the MPC should have due regard to the plan prepared by the Municipalities and the Panchayat, matters of common interest to them, objectives and priorities of the Government of India and the State Government, available financial and other resources for integrated development of infrastructure, environmental conservation, etc. The MPC is expected to hold wider consultations with different institutions and organizations. The Metropolitan Planning Committee is envisaged as an inter-governmental and inter-organizational forum for providing a vision, a strategy and a metropolitan wide development plan.

Legal changes suggested by the National Commission to Review the Working of the Constitution (NCRWC)

The *NCRWC* has suggested the following legal changes:

- (a) Metropolitan Planning Committees should be limited to metropolitan areas with 20 lakh population or more. Clause (c) in article 243P may be amended accordingly.
- (b) State laws should specify the organization which will function as the technical and administrative secretariat of the MPC under its control.
- (c) Where MPCs exist, their functional and territorial jurisdiction should be distinct and separate from the DPC.

2.3.6 Municipal Corporations and their Problems of Autonomy and Accountability

Millennium Development Goals (MDGs) delegate the international community to have a wide-ranging vision of growth and governance of public services. The most broadly established measure of development efforts by government and non-government organizations (NGOs) are these goals. MDGs correspond to an organized group of numerical and time bound objectives to key achievements in human development. The findings of a World Bank study in 2005 recommended that the realization of the MDGs will remain challenging in poor states of India. As far as performance on millennium development indicators is concerned, there are large inter-state and intra-state variations in the country. Several of the millennium development indicators have increased level of geographical concentration in the country. In terms of achieving MDGs, states like Bihar, Uttar Pradesh, Madhya Pradesh, Orissa and Rajasthan are at critical junction. Although municipal services in India have improved due to the decentralization initiative, urbanization, unintended urban development and insufficient infrastructure and resources have stressed on urban services. The urban services have failed in keeping pace with the fast growing population. Thus, the need is felt to review the status of municipal services and efforts for its restructuring in the changed environment and new policy regime.

NOTES

NOTES

There have been numerous discussions in India as far as the quality of public services delivery is concerned. The services delivery in India has generally been poor. However, according to a national survey of major public services by Public Affairs Centre, India has done well in terms of providing basic access to such services. However, as far as ensuring their quality, reliability and effectiveness is concerned, the study finds that India's success has been below average. The Transparency International (TI) has found high levels of corruption in services, such as health care, education, power, land administration and the police. According to a World Bank study in 2006, 'The civil service is burdened with expanding expenditure. Short tenures caused by premature transfers of officials responsible for delivering public services have undermined continuity. The weakness of accountability mechanisms acts as a hindrance in improving services, whereas bureaucratic complexity and procedures have made it difficult for an ordinary citizen to navigate the system for his/her own benefit. The study further point out that civic pressure by civil societies for change is not robust. According to it, the absence of accountability provides opportunities for corruption. The unfettered cost of elections and absence of legitimate funding sources have created incentives for extracting rents from administrative functions. Hence, for improving service delivery, the concept of good governance has become significant. The devices for improving service delivery include:

- Promotion of competition
- Simplification of transactions
- Restructuring of agency process, decentralization
- Development of political support for programme delivery
- Strengthening of accountability mechanisms

It is generally assumed that competition improves service delivery outcomes. When transactions are simplified through increased use of e-governance, it becomes easier for citizens to relate with the state governments. Likewise, reorganizing agency processes involved change in various dimensions.

Decentralization and strengthening of local governments are accountable for improved functioning of public services. Accountability can be ensured by:

- Reduction of premature transfers
- Motivation of higher access to information
- Control of corruption through intense public pressure and public interest litigation

In the environment of liberalization, globalization and economic changes, cities and towns are fast emerging as centres of growth. According to recent projections, by 2025, more than 50 per cent of the country's population will be living in cities and towns. This may result in a possible

rise in the demand of infrastructural facilities and services as a result of urbanization. This, in turn, may result in the creation of difficult situation for the urban planners, policy makers and managers. Thus, resources will have to be mobilized to finance urban infrastructure and services on the basis of public private partnership. It is possible to increase community participation in delivery of public services by introducing the report card system (discussed ahead) for measuring public opinion on governance.

Status of municipal services

The highlights of municipal services in India are as follows:

- As per the 2001 census, 27.78 per cent of India's population live in cities compared to 17.3 per cent in 1951.
- India's urban population is vast in terms of the population size.
- Population in large cities has grown rapidly and this has resulted in serious infrastructural deficiencies in urban India.
- The substantial increase in the percentage share of urban populations in Class I cities from 26.0 per cent in 1901 to 68.7 in 2001 may be attributed to faster growth of large cities, without taking into consideration the increase in the number of these cities.
- Small cities and towns in majority of the Indian states are either stagnating or decaying. The small and medium towns are also experiencing serious problems owing to the absence of infrastructural facilities.
- As a result of considerable urban growth, quality of urban life has declined and there is a critical need to strengthen ULBs that can deliver sufficient services and better living conditions to citizens.
- The 74th Constitutional Amendment Act has made provisions for introducing Twelfth Schedule of the Constitution which provides details of the functions of ULBs, such as planning, regulation and other developmental features.
- Owing to the rising demand of urban services and infrastructure, National Commission on Urbanization has identified the role and importance of the urban sector in the national economy.
- According to the estimates of the Expert Group on Commercialization of Infrastructure Projects (ECGIP), during the period of 1995–2005, the annual investment need for urban water supply, sanitation, and roads stood at ` 280 billion.
- Another estimate made for the Ninth Five-Year Plan had predicted the investment requirement for urban housing at ` 526 billion.
- The Central Public Health Engineering has estimated the requirements of funds for 100 per cent coverage of the urban population with safe water supply and sanitation services by the year 2021 at ` 1729 billion.

NOTES

NOTES

- Estimates by RITES indicate that the investment needed for urban transport infrastructure in one lakh plus cities during the next 20 years would be of the order of ` 2070 billion.
- Most of the municipalities today face problems of resources and they depend on their respective state governments for allocating or transferring resources to them.
- Due to lack of resources, fragmentation of schemes and higher level of stress on services, the quality of basic services is declining fast. The improvements made in infrastructure cannot be matched with those in the service levels.
- There are several shortcomings that can be seen in urban service delivery such as fragmentation, duplication and overlapping of policy, regulation and operational roles, restricted autonomy to ULBs, weak links with citizens, lack of capacity; lack of incentives, etc.
- One of the important urban services provided by municipalities is solid waste management. According to TERI, it is estimated that by year 2047, waste generation will increase to 200 million tonnes, five times the present level. Another study reveals that cities with 1,00,000 plus population contribute 72.5 per cent waste generated in the country as compared to 3955 urban centres that produce only 17.5 per cent of the total waste.
- The accumulation, division, storage, transportation, treatment and disposal arrangements of waste are inappropriate and unscientific due to which health hazards and inefficiency are visible in solid waste management.
- In majority of towns and cities, the bio-medical waste is also not appropriately managed. A study for ascertaining the status of compliance of MSW Rules, 2000 by class one cities in India reveals that there is inconsequential development in processing of waste and construction of sanitary land fills in the country.
- Water supply and sanitation have a very significant place in urban development. The urban water supply and sanitation (UWSS) sector in India focuses on many problems and needs a huge investment for revamping. Without extensive subsidies, several service providers are not financially feasible and are not capable of retaining services. The services cannot be provided to the entire population and are often of low quality owing to insufficient funding of operation and management.
- Environmental degradation has also decreased the quality of services. The latest data provided by the 58th round of the National Sample Survey Organization (NSSO) specify the level of disparities in the modes of access for water supply across states. States like Bihar (35 per cent), Assam (35.5 per cent, Kerala (40 per cent), U.P. (50 per cent) and Orissa (50 per cent) are

performing very low in supplying tap water to urban households. However, in nine other states, 90 per cent of the urban population receive tap water.

- The data collected on sanitation services from the 54th round of NSSO also portray considerable state wise variations. Sanitary standards are very low in the urban areas of Bihar and Madhya Pradesh where more than 45 per cent of the population does not have a provision for any type of latrine. The most common mode of sanitation in use is the septic tank with more than one third of the urban population depends on them. Sewerage is virtually absent in Bihar, Madhya Pradesh, Orissa and Assam. Punjab, Maharashtra, Gujarat and Tamil Nadu are placed better.
- Only 70 per cent of India's urban population has sufficient excreta disposal facilities. Government policy discourages building of sewerage systems in towns of less than 10 million people. Thus, river water and other sources for drinking water supply are excessively polluted due to inadequate sewerage and lack of waste water treatment facilities. The uncollected solid waste creates obstacles in drainage system in most cities and leads to flooding and water lagging in monsoon rains.
- In urban India, the rising population has led to the growth of many economic activities which demand for a variety of transport modes and travel operators. A study carried out in 21 cities suggests that more than 75 per cent of the trips in a city are on account of either employment or education.
- The congestion in urban transport is very high due to increase in vehicles and inadequate expansion of road network. The increase in vehicles has caused air pollution and road accidents.
- Though India has developed an extensive public delivery system for the provision of health care and education, the role of public sector in delivery of health and education services is gradually reducing.
- Only one-third schools are managed by local bodies (35.6 per cent). The quality of infrastructure in schools run by local bodies is found to be poor.
- Though municipal hospitals are found in most Indian cities, they are very scarce compared to the rapidly expanding urban population. Most of the health centres do not cover the slum populations. The access of poor to health care services managed by government is also declining.

Corruption in municipal services

Corruption in municipal services has the following features:

- The Indian corruption study 2005 by TI India is exclusive because of its scope and sample size. It takes into account both

NOTES

NOTES

- perceptions and experience of actually paying a bribe to get attended to or serviced by public service providers.
- The TI study covered ten public services—police, judiciary, municipal services, government hospitals, electricity, public distribution system, income tax, water supply, schools and rural financial institutions. 75 per cent of the citizens of the country assume that the level of corruption in public services has risen since 2004–05. According to study, police occupy a distinct position on the corruption score. Judiciary and land administration are rated next. The least corrupt state in India is Kerala, whereas Bihar is the most corrupt state. Jammu and Kashmir is next to Bihar in corruption.
 - According to TI 2005, the main factors of corruption in public services were reported to be:
 - o Lack of transparency and accountability in system
 - o Lack of an effective corruption reporting mechanism
 - o Lack of honesty among officials in government
 - o Acceptance of bribe as a way of life, custom and culture
 - o Ineffective anti corruption institutions
 - o Poor economic policies
 - o Inadequate training and orientation of government officials
 - The TI study highlighted the following facts in the context of municipal services:
 - o Nearly 17 per cent households have interacted with municipalities to get one or the other service.
 - o About 25 per cent of those interacted with the municipalities had actually paid bribes.
 - o Over 33 per cent had visited municipality more than four times in last one year.
 - o About 75 per cent opined that there was corruption in the municipality.
 - o About 75 per cent believed that corruption had increased in last one year.
 - o About 40 per cent had taken recourse to alternate methods like paying bribe or using influence to get their work done.
 - The service providers state due to the following factors, the municipality is facing difficulty in delivering the services efficiently due to:
 - o Shortage of staff, finances
 - o Inadequate training and orientation to staff
 - o Lack of coordination between various departments of municipalities
 - o Lack of centralized decision making authority

- The efficiency in public service delivery system has improved by organizing training and orientation to staff and elected representatives, registering the complaints, computerizing the departmental procedures, simplifying the procedures and transparency in work, and also by providing the public private partnership initiatives.
- For developing the urban services, the government has now identified that greater accountability for service delivery performance is a prerequisite to increase the coverage and quality of services. The urban governments are endeavouring to improve the urban services through public–private partnership initiatives (discussed ahead) and by introducing report card systems (discussed ahead).

NOTES

Public–private partnership

The role of public–private partnership in solving the problems faced by cities and towns in India may be highlighted as follows:

- Private sector participation in financing, designing, construction and operations and maintenance of public sector programmes and projects are enhanced by public-private partnership.
- According to the Planning Commission, this is high time to forge a greater interface between the public and private sector in a wide range of activities in the country.
- Traditionally, majority of the public services are supported with in-house facilities of governments and are financed and managed directly by them.
- Services are delivered by the private sector under public-private partnership, whereas the responsibility for providing the services lies with the governments. This arrangement requires the government to either enter into a 'contract' with the private partner or pay for the services rendered by the private sector.
- According to the Planning Commission, contracting prompts a new activity when neither the public sector nor the private sector existed to provide the service. Three things differentiated public–private partnership from direct provision of services by governments.
 - o A partnership based on well articulated contract,
 - o A long-term relationship between the public and private sector
 - o Flexibility and responsiveness in decision making
- Till recently, in India, the contribution of private sector participation for financing urban infrastructure and services, especially water supply and environmental sanitation, has not been very encouraging. However, recently, the potential of public–private partnership in delivery of services in urban sector has been indicated by some private sector initiatives for financing long-term

NOTES

capital investments in urban basic services, particularly water supply and solid waste management. However, the failure of the governance system in creating encouraging atmosphere is the basic impediment towards the successful private sector participation in financing urban basic services rather than the failure of the initiative in itself.

- To obtain the benefits found in public sector and private sector enterprises, the role of public–private partnership is significant in some critical areas related with the delivery of municipal services.
- There are five main categories of public–private partnership, such as:
 - o Contract services
 - o Privatization of services
 - o Designing, construction and operation of facilities
 - o Project financing
 - o Merchant facilities
- The reduction in cost of maintenance, increased efficiency and timely completion of new projects are likely to take place through the partnership in municipal services. Under Jawaharlal Nehru Urban Renewal Mission, Government of India is committed to eradicate the roadblocks in delivery of services and create infrastructure in collaboration with private sector. There will be two main components of the mission focusing on infrastructure and governance and services to the urban poor respectively.

Report card system

Report Card System is a valuable tool that is useful in scrutinizing various aspects, such as:

- People's participation
- Rule of law
- Transparency
- Responsiveness
- Equity
- Effectiveness
- Efficiency
- Accountability
- Strategic vision

With respect to the delivery of public services, various studies have been undertaken by various bodies to establish and monitor public opinion. Report is a way of measuring public opinion in an organized way. With relation to public services, the main problems that are found are:

- Citizens have no effective voice to influence service delivery.
- The quality of service delivery by public services is very poor.
- Public authorities have no effective way to assess public satisfaction.

Hence, for measuring public opinion on quality of public services, the report card system can be utilized. The report card involves methodologies, such as:

- Random sample surveys of households
- Group discussions
- Brief case studies of selected respondents
- Documentation of information provided to the public by service providers
- Interviews with a sample of lower level staff of the agencies
- According to the World Bank report of 1999, the cards attempt to assess, rank and benchmark the following parameters;
- Overall satisfaction with service delivery (levels of service)
- Extent and coverage of services
- Patterns of emerging problems
- Response of agencies to reported problems and grievances
- Effectiveness of bribes in rectifying reported problems

Reforms in municipal services

For removing road blocks in delivery of urban services, three types of triggers are capable of inducing reform in urban governance and service delivery.

1. Fiscal flows
2. Decentralization (which can initiate change and build incentives for assuring accountability in delivery of services)
3. Making service providers directly accountable (the demand side trigger)

The incentive-based approach has many advantages. In this approach, the key elements are as follows:

- Market-oriented financial systems
- Democratic decentralization
- Commercialization of service providers

Devolution of responsibilities to municipal authorities can also lead to good practices. The presently state-owned service providers need to be drastically reformed. This will include:

- Unbundling by functions
- Removing monopolies to encourage competition
- Corporatization of disaggregated entities leading to privatization

NOTES

NOTES

According to the World Bank, these reforms may be supported by:

- Enhancing private sector participation
- Developing appropriate comparative competition facilities
- Customer responses and feedback mechanisms

For ensuring financial viability of services, tariff rationalization is also necessary. The subsidy provided to poor should be explicit, transparent and target oriented.

Suggestions for overcoming the problems of ULBs

Despite rising financial support by the Government of India, the quality of services in urban areas is decreasing. To remove the obstacles in developing service delivery, the central government has launched Jawaharlal Nehru National Renewal Mission (JNNRM) for large cities, while the Integrated Infrastructure Development Scheme for Small and Medium Towns (IIDSSMT) is already aimed at improving the coverage and quality of basic urban services.

However, state level response to the policy shifts is unsatisfactory, which generates hindrances in the efforts of the Indian government. The main tools for improving service delivery in ULBs should include the following:

- Government needs to endorse higher competition in service delivery across sectors.
- The regulation of services may be solution to the ongoing problem of selfish behaviour of service providers.
- Government should motivate the broad use of e-governance for simplifying communication between governments and citizens.
- Public–private partnerships need to be encouraged, especially in projects with e-governance, water, sanitation, solid waste management, etc.
- Governments need to carry out functional evaluation of service providing agencies in order to inspect road blocks in delivery of services and develop the coverage and quality of services.
- To improve inter-agency collaboration for effective implementation of reforms and delivery of services, better coordination mechanism needs to be created.
- Private independent agencies should introduce the report card system to examine the performance and quality of services as well as governance. The feedback of citizens regarding quality and coverage of services provided by agencies may increase accountability and efficiency in service delivery.
- Citizen’s charters are constructive methods for spreading information to clients. These charters need to be expanded after consultation with staff and citizens.

- Municipalities need to restrict their roles to regulation of services. However, municipalities can take up private sector participation for monitoring, direction, auditing and performance evaluation of services.
- Transfer of certain funds to Ward Committees or Resident Welfare Associations to take up maintenance and repair work in their respective area would be helpful in decentralization and devolution of functions.
- For improving the coverage and quality of urban services, privatization of maintenance and operation works of certain civic amenities would be useful.
- Public utilities should be restructured. A new governance structure for the services sector needs to grow.
- Community participation in delivery of urban services should be intensified through the strengthening of NGO's local bodies, public associations and self-help groups (SHGs).

NOTES

2.4 SUMMARY

- The modern advent of the idea of local self-government in India was due to the needs of the British Government.
- Personalities like Lord Rippon played a very important role in the establishment of the elected urban local government in India.
- The Acts of 1919 and 1935 were important milestones in the history of the urban local self-government in India.
- After independence we have seen the rise in the urban population in India which has necessitated the reforms in the urban local government.
- Urban local government in India is a state subject and it is divided into three broad categories; municipal corporations, municipal councils and notified area committees. The only difference between them is the difference of scale and size.
- The 74th amendment has created District Planning Committees necessary as a coordination body between rural and urban local self-government bodies.

2.6 KEY TERMS

- **Municipal corporation:** The legal term for a local governing body, including (but not necessarily limited to) cities, counties, towns, townships, charter townships, villages, and boroughs
- **Lottery:** A means of raising money by selling numbered tickets and giving prizes to the holders of numbers drawn at random

Check Your Progress

6. When was municipal governance first introduced in India?
7. Who does the executive jobs in the municipal corporation and councils?
8. What provision has Article 243-T made for the members of scheduled castes and scheduled tribes?
9. Which amendment was followed by the creation of district planning committees?

NOTES

- **Presidency towns:** Provinces of British India, that were the administrative units of the territories of India under the tenancy or the sovereignty of either the English East India Company or the British Crown
- **Viceroy:** A ruler exercising authority in a colony on behalf of a sovereign
- **Mayor:** The elected head of a city, town, or other municipality
- **Bureaucracy:** A system of government in which most of the important decisions are made by state officials rather than by elected representatives
- **Enfranchisement:** Freedom from political subjugation or servitude
- **Legislation:** A law which has been promulgated (or enacted) by a legislature or other governing body
- **Dyarchy:** A form of government having two joint rulers

2.7 ANSWERS TO CHECK YOUR PROGRESS

1. The basic motive of the British government to introduce the idea of local government in India was to basically introduce a local administrative system which will work in collaboration between 'the association of natives and Europeans to a greater extent than heretofore in the administration of local affairs' (Wheeler 1917: 153).
2. The system of provincial finance was introduced by the resolution of Lord Mayo's Government.
3. The 1793 Charter Act made local government in India a statutory body for the first time.
4. For administrative purposes, the British India was divided into revenue districts, sub-divisions and within them the smaller units of *Talukas* and *Tehsils*.
5. The government of India accepted the Montesquieu Chelmsford reforms in 1919.
6. Municipal governance in India was first introduced in 1687.
7. The executive jobs in the municipal corporation and councils are done by the state appointed officers or municipal commissioner and local officers.
8. Article 243-T has made the provision for the reservation of seats for the members of scheduled castes and scheduled tribes in every municipality.
9. District planning committees are created after the 74th amendment.

2.8 QUESTIONS AND EXERCISES

Short-Answer Questions

1. Where was the first urban local government established in India and when?
2. When was the first election for urban local government held in India?
3. When did Royal Commission on Decentralization formed?
4. When urban local government was made a state subject in India?
5. Who heads the municipal corporations?

Long-Answer Questions

1. Trace the evolution of urban government in India.
2. Give an account of the urban local government in India after independence.
3. Describe the structure of the urban local self-government in India.
4. What were the significant developments that followed the 1870 resolution?
5. Write a note on the composition and the constitution of municipalities and ward committees.

2.9 FURTHER READING

References

- Wheeler, H. (1917), Local Self-Government in India, *Journal of the Society of Comparative Legislation*, 17 (1/2): 153-164.
- Garg, Subhash Chandra, Mobilising Urban Infrastructure Finance in India in a Responsible Fiscal Framework,
<http://siteresources.worldbank.org/INTMF/Resources/339747-1105651852282/Garg.pdf>
- Maheshwari, Sriram. (1971), *Local Government in India*, New Delhi: Orient Longman.
- Mallik S.N. (1929), Local Self-Government in India, *Annals of the American Academy of Political and Social Science*, 145 (2) 36-44.

Website:

<http://lawmin.nic.in/ncrwc/ncrwcreport.htm>

NOTES

UNIT 3 EVOLUTION AND STRUCTURE OF RURAL GOVERNMENT IN INDIA

NOTES

Structure

- 3.0 Introduction
- 3.1 Unit Objectives
- 3.2 Evolution of Rural Self-government in India
- 3.3 Structure, Function and Sources of Finance of the Rural Local Government in India
 - 3.3.1 Zila Parishad
 - 3.3.2 Panchayat Samiti
 - 3.3.3 Gram Panchayats
 - 3.3.4 State Finance Commission
- 3.4 Summary
- 3.5 Key Terms
- 3.6 Answers to 'Check Your Progress'
- 3.7 Questions And Exercises
- 3.8 Further Reading

3.0 INTRODUCTION

The Panchayati Raj System is another name for the rural self-government in India. It has a historical presence in India. The main role of the Panchayati Raj has been to provide a better avenue for local participation in democratic development of the country. It has been proved beyond doubt that it is the best way to establish democratic decentralization. Unlike the urban local government, rural local government has been found even in ancient Indian societies. When British first introduced the concept of local self-government they did it only for urban areas. It was only in the twentieth century that any modern institution of rural local government was established. The national leadership, including Mahatma Gandhi and Nehru, were vocal supporters of the idea of Panchayati Raj. Once India got independence in 1947 and our constitution was implemented, Panchayati Raj became a constitutional entity. Article 40 of the Indian Constitution asked the state to implement the values of Panchayati Raj in India as soon as possible.

In addition to the fact that it had the support of the national leadership, it also had a historical presence in India and was also mentioned in the constitution. Panchayati Raj in its true sense could not become reality in India till the 73rd Amendment was made in the Indian Constitution, in 1992. Panchayati Raj institutions constitute the third layer of government in India, linking the people of India directly to the constitution and democracy. After the 73rd Amendment, it has got various powers and responsibilities and therefore its study has become very important. The

NOTES

devolution of power in the constitution, to the rural bodies, has created a great enthusiasm among the people for participating in the working of democracy. Panchayati Raj institutions have not only become a source of greater economic development but they have also become a great source and means of providing social justice in India.

3.1 UNIT OBJECTIVES

After going through this unit, you will be able to:

- Learn about the formation of the rural local government in India
- Know about the role of British colonial administration in bringing modern rural local governance in India
- Explain the evolution of local government since independence
- Discuss the basic structure of Panchayati Raj institutions, their functions and their sources of finance
- Understand the working of state finance commission

3.2 EVOLUTION OF RURAL SELF-GOVERNMENT IN INDIA

The history of rural local government in India is very old. It has been found that people in the ancient times too were governed by some kind of rural government. This was known as Panchayat, which literally meant the assembly of five people. This assembly of five people had various administrative and judicial powers at that time. This system of Panchayats remained the same throughout the ages in India, despite various developments at the central level. It was only during the transition from the Mughal to the British rule that these local Panchayats became dysfunctional (Aslam 2007: 10). During the British rule the need for rural local self-government was not realized till 1870s. Most of the initiatives undertaken by the British rulers regarding the local government were restricted to urban areas and to the areas of tax collection. The first real initiative for the establishment of any kind of rural local government in India was taken by Lord Ripon's administration. In 1882, Lord Ripon, acting on the report submitted by the Famine Commission in 1880, adopted a resolution of local self-government in India. The Famine Commission had recognized the absence of local bodies as the main hindrance in the effective distribution of relief materials to the affected regions and population. On the basis of this resolution in 1885, The Local Bodies Act was passed by the British Parliament.

In the 1909 report of the Royal Commission on decentralization, it was accepted that it is desirable to have effective decentralization of power in order to associate people with local tasks and village affairs. It recommended the establishment of village Panchayats for the first time

(Aslam 2007: 13). However, both these recommendations by Lord Ripon and by the Royal Commission on decentralization remained only on paper, when it came to their implementation in the rural areas. The British government relied only on the district boards that were established under the Local Bodies Act of 1885, for the management of rural areas. In it, local government outside the towns was based on the district board with subordinate bodies for sub-divisions (in Madras, Bengal and Bihar and Orissa) or Talukas and Tehsils (in Bombay and the central provinces). In the united provinces, Tehsil boards, after trial, were abolished as useless, while in the Punjab they had continued in a few districts only. Assam had adhered throughout to sub-divisional boards only, with no coordinating body for the whole district. All over India, there were supposed to be 199 district and 537 subordinate boards, having jurisdiction over 215000000 people. Since the British India comprised of 804,965 square miles, it was obvious that, in terms of area, the charge of a district board was considerable (Wheeler 1917: 157).

The chairman of the district board, however selected (i.e., whether by right ex-officio, nomination or election), was the collector or deputy commissioner. In the larger majority of sub-district boards, the chairman was usually an official (either the sub-divisional officer or Tehsildar). The main duties of rural boards comprise: the maintenance and improvement of roads and other communications, education (especially in its primary stages), the upkeep and maintenance of medical institutions, vaccination, sanitation, veterinary work, construction and maintenance of markets and rest houses and the charge of pounds and ferries. They might also be called upon to devote their funds to famine relief and to cope with plague and other special epidemics. The backbone of the revenue of rural boards was a cess upon agricultural land, which was levied, over and above the land revenue, at a rate which usually did not exceed 6 per cent on the annual rent value. However in recent years, grants by government, particularly for education and sanitation, had formed the most important item on the receipt side, both in terms of direct contributions and through allocation to the boards of the total proceeds of the land cess, which were previously subjected to noticeable deductions in favour of the government for different purposes. Therefore in later years, the resources of rural boards had been materially expanded, though in some instances these bodies have scarcely realized the possibilities of beneficial activity afforded by this new-found affluence.

Meanwhile in its 1909 Lahore session, the Congress adopted a resolution urging the government to take early steps to elect local bodies from village Panchayats, upwards with elected non-official chairman. However, the government did not take it seriously at that time and this remained on paper only. The first major reform in local self-government was taken as part of the Montagu-Chelmsford Reforms of 1919. Local self-government was transferred to elected members of the provincial councils under the proposed scheme of dyarchy. The idea behind this

NOTES

NOTES

was to make the local bodies more and more representative and establish a popular control over them. There were various provincial acts adopted by different provinces in order to establish the rural local governments, after the 1919 reforms. Examples of these were: Bihar and Orissa Village Administration Act of 1920, Punjab Village Panchayat Act of 1935 and Jaipur Village Panchayat Act of 1948. Most of these laws covered some selected areas and did not have universal presence and authority, even within a state. Their functions were also very limited. The whole idea of creating a local self-government was to make it representative. However, most of these rural local bodies remained unrepresentative and their officers were nominated by the state governments. Their financial powers were also limited and they were dependent on the state government.

In post-independent India the opportunity to fulfill the dream of Gandhi to establish a strong Panchayati Raj system was utilized due to various reasons. According to Gandhi, Panchayats would be central agencies of the government in his scheme of things. Many other national leaders too concurred with the idea during the freedom struggle. However, after the independence it was not taken up with that enthusiasm. The constitution of 1950 made local self-government a state subject and it was only in Article 40 of the Indian constitution, which comes under the Directive Principles of State Policy and therefore had no legal relevance. It was stated that the state shall organize village Panchayats and endow them with such powers that may enable them to function as units of self-government. According to George Mathew, this was a sad commentary on India's national commitment to democratic decentralization (1995: 4). It has been variously criticized by various scholars as the betrayal of Gandhi's and India's historical legacy. The governments in most of the states at that time and even central government at the time were occupied with the economic and social development of the country and therefore did not take Article 40 very seriously. Because of this, only few states like Rajasthan in 1953 did take some interest in establishing Panchayati Raj.

By the middle of 1960 there were only ten states which took initiatives in establishing some type of rural self-government or Panchayats. However in all these ten states, the shape, formal legal status and rights of these Panchayats were so different that it was not possible to make any objective assessment of the working of these bodies. Meanwhile, the government of India tried to initiate a community development programme, as an alternative to the local self-government, starting from 1952. Most of the objectives of this community development programme did not materialize due to the lack of the people's participation. In 1957, the government of India formed a team for the study of community projects and national extension services, under the leadership of Balvantray Mehta. The report submitted by the Balvantray Mehta Committee as it is popularly known, prescribed the establishment of effective decentralization of power to the Panchayats

and other local bodies. It observed that without popular participation and devolution of power to the Panchayats, any community development programme will not be successful. The findings and recommendations of the committees can be summarized into three broader headings:

1. The community development programme would not be successful until power is decentralized to the local bodies. The negligence of Panchayats as an effective tool of development has led to the failure of the programme.
2. The local bodies in rural areas should have full control over the development schemes implementation.
3. The government at various state and central levels should restrict their activities to supervision and supply of additional finance.

The Balvantray Committee recommended a three-tier system of rural local government: village Panchayats at the lowest level, Panchayat Samiti at the block or intermediary level and the Zila Parishad at the district level. The committee recommended block level committees of elected representatives. According to the Balvantray Mehta committee report, the block level Panchayat Samiti should be given most of the responsibilities and power as it would be the most effective body of rural local development. It argued in favour of genuine transfer of powers to these bodies. According to the report, they should be provided with adequate finances and all development programmes should be channelled through these bodies. The committee also recommended that the Zila Parishad should only have an advisory role and it should not interfere in the day-to-day functioning of the Panchayat Samiti or Village Panchayat.

The basis of these recommendations and findings was the growing realization among the high officials and political elite in India, which said that any development is not possible without popular participation in the development schemes and only decentralization can bring people close to these schemes. The participation of local communities and population is a must in order to enact any effective development policy and therefore it was wise to involve people at the grassroot level in their own development. We can conclude that the first genuine Panchayati Raj institution in India came into force in 1959 when the recommendations of the Balvantray Mehta Committee were accepted. The government of India accepted two basic objectives of the rural self-government. These objectives were as follows:

1. Democratic decentralization at every effective level
2. Increase in the local participation in all the measures taken by the government, for the development of people.

Based on the Balvantray Mehta Committee's recommendations, the states of Rajasthan and Andhra Pradesh first took the initiatives to establish new Panchayati Raj institutions. On 2nd October 1959, at Nagaur district in Rajasthan, the Indian Prime Minister, Jawaharlal Nehru,

NOTES

NOTES

inaugurated the first Panchayat in India, under the new Panchayati Raj system. By the end of the year, all the other states had passed the Panchayat Acts and subsequently Panchayats were set up in all the parts of the country. At that time, on an average every Panchayat covered around 2400 people in two or three villages (Aslam 2007: 21). Despite this promising beginning, most of the newly established Panchayats soon became dysfunctional by the middle of 1960s. Most of the state governments refused to conduct elections for these bodies and provide them adequate funds. The result was a decline in the popularity of these institutions in India, in the coming decade.

The reasons of this decline was mainly lack of uniformity in the structure of the Panchayati Raj institutions, changes in the priority in the development programmes, lack of the clarity about the extend of their powers and responsibilities, lack of enthusiasm among the bureaucratic machinery to part with their powers and share them with elected representatives at the Panchayat levels and failure of the state leadership to share the power with their local representatives. Due to these problems, most of the state governments did not provide enough funds to these institutions. Due to lack of funds, most of the programmes undertaken by these bodies remained unfulfilled. Meanwhile, there was a change in the central government. The new Janata Party government formed a committee headed by Ashok Mehta, in order to have a fresh look at the Panchayati Raj System, in 1977. The committee also recognized the central role of rural areas in every future development in India and therefore, it was decided that the Panchayati Raj system should be at the centre of all initiatives undertaken by the governments. According to the committee, there are five main reasons of the failures of the Panchayati Raj System in India. These are as follows:

1. Most of the states have kept the Panchayats out of most of the programmes of development
2. Bureaucracy at various levels did not show enough enthusiasm in including Panchayati Raj institutions in development programmes mainly due to their unwillingness to work under the elected representatives and share their powers.
3. There had been a lack of conceptual clarity regarding the concept of Panchayati Raj itself and also regarding its nature, extent of powers and status.
4. Most of the Panchayati Raj institutions have faced discrimination by the state governments. They were not given enough resources and attention by state governments.
5. Due to above reasons, most of the Panchayati Raj Institutions had failed to perform their basic duties, which led to mass disillusionment among the people at various levels with the working of these institutions.

After going through the reasons for the failures of the Panchayati Raj Institutions in the country, the Ashok Mehta Committee recommended

that intermediate level districts should be considered as the first point of decentralization. It also recommended the establishment of Mandal Panchayats below the district levels, over every population of 15000 to 20000 people. It also suggested that most of the functions of the Panchayat Samitis should be given to Mandal Panchayats and Panchayat Samiti should be converted into non-statutory executive committees of Zila Parishads. People should be involved with the Mandal Panchayats through various village committees. These village committees would look after all the municipal and welfare functions in the area.

According to the recommendations of the Ashok Mehta Committee, elections for the Panchayati Raj system should be held on a party basis and it should be conducted by the state election officers. It envisioned a greater role of an expert committee, based in the Zila Parishads to help in devising economic plans at the district level. A Zila Parishad should have six kinds of members: presidents of various Panchayat Samitis (will be ex-officio members), nominees of bigger municipalities, nominees of district level cooperatives federations, two women who get the highest number of votes in the Zila Parishad elections and two co-opted members (one who is specially interested in rural development and the other, drawn from university teachers). According to the Ashok Mehta Committee, all the development functions related to a particular district should be placed under the Zila Parishad. Mandal Panchayats would be responsible for the implementation of most of the programmes assigned by the Zila Parishad.

Hence, unlike the Balvantray Mehta Committee, the Ashok Mehta Committee recommended a two-tier Panchayati Raj System in India. This did not agree with the provision of a previous committee that an intermediary level of Panchayati Raj System, namely block level, should be at the central level of decentralization and instead, it suggested the making of the Zila Parishad as the prime object of decentralization, below the state level. Mandal Panchayat was considered as a link between various village Panchayats and various rural and urban local governments. It did not recognize any importance of Gram Sabha or village Panchayat. This committee also suggested the provision of social audit of the programmes from an independent body at every level, to check the right implementation of the programmes undertaken for the development of scheduled castes and scheduled tribes. Similarly, after the Balvantray Mehta Committee report, various state governments passed new laws of rural local government on the basis of the Ashok Mehta Committee's recommendations, for example, Andhra Pradesh, West Bengal and Karnataka. However, soon in 1979, at a chief minister's conference in New Delhi, the recommendations of Ashok Mehta Committee were rejected and the three-tier system suggested by the Balvantray Mehta committees was retained.

Nevertheless, the problems of rural local self-government persisted. In order to review the working of the rural development and poverty

NOTES

NOTES

alleviation schemes in 1985, the Planning Commission of India formed a committee under the leadership of G. V. K. Rao. The mandate of the committee was to recommend appropriate structural mechanism to ensure that these programmes and schemes are implemented effectively. The committee also examined the working of the Panchayati Raj institutions and their relationship with the administration. According to the G. V. K. Rao Committee most of the states have not implemented the policy of decentralization satisfactorily. They have left the Panchayati Raj institutions without adequate power and responsibility and therefore it recommended a significant level of decentralization, at the district level. According to the committee;

1. There should be regular elections for all the Panchayati Raj institutions and they should be activated wherever they are not in a working mode.
2. The development of rural areas should not be taken in isolation and it should be based on a comprehensive view of development.
3. District or Zila Parishads should be given a central role in the activities of rural development, planning and management. All the programmes should be implemented at the district level.
4. Rest of the institutions under the Panchayati Raj should also be included in an effective and prominent way in the management, planning and execution of the rural development programmes.
5. Planning should also be transformed to a district level. Zila Parishad should have various committees. Members for these committees should be elected from the Zila Parishad, in accordance to the system of proportional representation.
6. There is a need to make maximum popular participation possible in the development programmes, in order for them to be successful.
7. There should be a provision of adequate power and financial resources to the local level.
8. There should be a block development officer who should be given a central role in the development of the area.

Most of the state governments were not holding elections for Panchayati Raj institutions by that time. The excuse was the lack of funds and resources. They were also not willing to impart their powers to these local bodies and this made making them defunct. All the committees suggested the importance of elections as did the G. V. K. Rao Committee. Still most of the states did not take it seriously. On the basis of this report, a new committee was formed by the government of India in 1986, under the leadership of L M Singhvi. The main task of the committee was to suggest ways for the revitalization of the Panchayati Raj institutions. The committee prepared a concept paper on the subject. This committee tried to link the Panchayati Raj with the

concept of *Purna Swaraj* or Gandhi's *Gram Swaraj* and considered it as the basic unit of self-government.

The committee criticised the prevalent view regarding these institutions as convenient tools of administrative programmes and agency of development. According to the committee this view has been the main reason for the negligence and disrespect of these institutions till now. The committee considered the view as harmful for the real development of democracy in the country. Article 40 of the Indian Constitution meant to give the Panchayati Raj institutions the proud place of the units of local self-government. Therefore, it was wrong to interpret them as agencies of development only. In the view of the committee, the Gram Sabha can be an embodiment of direct democracy in the country and therefore, it should be given due importance and respect. The L M Singhvi Committee recommended following:

NOTES

1. There should be regular and consistent elections for all the Panchayati Raj institutions at the end of every term. All measures should be taken to conduct fair, free and regular elections for these bodies. If necessary, the responsibility for these elections should be given to the election commission of India which can arrange a mechanism for Panchayat elections.
2. No Panchayati Raj institutions should be allowed to be suspended for more than six or seven months. It means, in any circumstance the elections for these institutions should be held within six month after the term of the previous body ends.
3. Local self-government should be a constitutional body and there should be a new chapter dealing with these institutions in the constitution.
4. Panchayati Raj institutions should be considered and made as the third tier of government in the constitution.
5. There should be a Panchayati Raj judicial tribunal in every state. This will adjudicate all the controversies regarding elections, suspensions, super sessions, dissolutions and other matters relating to the working of Panchayati Raj institutions.
6. The commission recommended the need to have a regular and adequate provision for finance to all these institutions. The central finance commissions should make special provisions for this.
7. There should be no participation of political parties in the Panchayat elections.
8. There should be Nayaya Panchayats at every Panchayat or for a group of Panchayats. These bodies will have powers of conciliation and mediation along with the powers of adjudication.
9. At every level there should be proper training for voters, representatives, officers and others who are involved in the functioning of the Panchayats.

NOTES

10. There should be legislation in the parliament incorporating all these recommendations.

In the aftermath of the recommendation of L M Singhvi Commission, there was a huge debate regarding these. In 1988 when the famous Sarkaria Commission on centre-state relationship submitted its report, it too emphasised on the need of having regular elections for local self-government and it also recommended the formation of state finance commissions in order to solve the problems of distribution of finances between state and local governments. These and various other committees led by P K Thungan (1988) and V N Gadgil (1989) also recommended the recognition of Panchayati Raj institutions in the constitution. The latter committee also recommended a five-year term for Panchayati Raj institutions and reservation for scheduled castes, scheduled tribes and women in these institutions. These recommendations became the part and parcel of the 73rd and 74th Amendments acts of the Indian Constitution in 1992. These amendments have established the present structure of the Panchayati Raj system in India.

3.3 STRUCTURE, FUNCTION AND SOURCES OF FINANCE OF THE RURAL LOCAL GOVERNMENT IN INDIA

The basic structure, function and financial provisions for the rural local self-government or Panchayati Raj in India has been described in detail in Part 9 of the Indian Constitution (Article 243 and from 243 A to 243 O). According to the constitutional provisions, the structure, term, responsibilities and finances for Panchayats would be broadly defined by these articles. State governments are free to allocate additional rights and duties to these bodies. They are also free to make provisions of reservation for other deprived sections in the Panchayats. The details of these sections are dealt with in Unit 5.

3.3.1 Zila Parishad

According to the Ministry of Panchayati Raj there are a total 584 Zila Parishads in India, in both, states and union territories. The highest numbers of Zila Parishads are in the state of Uttar Pradesh (72). Zila Parishad is the highest local government body in the Panchayati Raj system. It is formed at the district level. It mainly looks after the administration of all the Panchayats of the district. Its office is located at the district headquarters. Members of the Zila Parishad are elected from the district on the basis of adult franchise, for a term of five years. Zila Parishad has minimum of 50 and maximum of 75 members. There are seats reserved for scheduled castes, scheduled tribes, backward classes and women. The chairmen of all Panchayat Samitis become members of the Zila Parishad. The Parishad is headed by a president

Check Your Progress

1. What does the word, Panchayat, literally mean?
2. What was the area of the British India?
3. What system of rural local government was recommended by the Balvantray Committee?

and a vice-president, elected from the members of the Zila Parishad. The Chief Executive Officer (CEO), who is an IAS officer, heads the administrative machinery of the Zila Parishad. The CEO supervises the divisions of the Parishad and executes its development schemes.

The main functions of the Zila Parishad are to supervise the working of the Panchayat Samiti and coordinate between rural and urban local self-governments in the district. It does provide essential services and facilities to the rural population through Panchayat Samiti. It is the main planning and executive body for all development programs for the district. It has the responsibility to help in the improvement of the agriculture in the district. Therefore it supplies improved seeds to farmers. It also informs them of new techniques of farming and gives them adequate training. It has the responsibility to undertake construction of small-scale irrigation projects and percolation tanks. Recently, it has taken the responsibility of maintaining common property resources such as pastures and grazing lands. Though Gram Panchayat or Panchayat Samiti has the main responsibility of maintaining primary educational institutions, even Zila Parishad does set up and runs schools in certain villages. It executes programs for adult literacy in the district or supervises these programs undertaken by other bodies. In certain areas it runs libraries too. Zila Parishad runs primary health centres and hospitals in different villages. It has the responsibility to maintain the basic sanitation in the district and therefore, it runs the programs of cleanliness and health awareness. It also runs mobile hospitals for remote hamlets. It carries various vaccination drives against epidemics and family welfare campaigns. Zila Parishad constructs and maintains small bridges and roads connecting villages in the district. It is responsible for the execution of plans for the development of the scheduled castes and tribes in the district and runs shelter homes and hostels for tribal and schedule caste children and students.

The main source of the income for the Zila Parishad is the collection of taxes on various facilities and services that it provides to the local residents, such as, supply of water, sanitation, roads, irrigation projects, etc. It collects taxes from commercial activities happening within its jurisdiction such as common market places, fair, exhibition and so on. According to the 73rd constitutional amendment, it has the right to get fixed annual grant from the state government in proportion with the land revenue and money for works and schemes assigned to it.

3.3.2 Panchayat Samiti

It is the second tier of the rural local self-government under the Panchayati Raj system. According to the ministry of the Panchayati Raj, there are 6312 Panchayat Samitis in India today. It works at the block level. In a Panchayat Samiti, all the heads of the Gram Panchayats in the area are ex-officio members. All state council members who reside in the block and are not in the ministry, all the elected representatives from the region provided they are not ministers and three members,

NOTES

NOTES

elected by each Gram Sabha in the region, are also parts of the Panchayat Samiti. The block development officer, appointed by the government, is the ex-officio executive head of the Panchayat Samiti. Members of the Samiti elect their head, called the chairman, from among themselves. The chairman presides over the meetings. The term of the Samiti is five years. The Samiti is generally divided into various sub-committees or departments that are headed by members of the Samiti. Some of the most important departments are finance and general administration.

The main function of the Panchayat Samiti is to execute the plans made by the Zila Parishad. It is the real implementation agency in all matters. It generally runs schools, water supply, sanitation, communication and other facilities and it also executes special programs for the development of scheduled castes, scheduled tribes and other deprived sections of the society in the area. It runs special hostels for the children from these sections. It grants permissions or has the right to revoke the permissions for a particular trade. The Panchayat Samiti regulates the common market places in the region and provides grants to schools and other public welfare institutions. It has the right to grant funds for the schemes and programs initiated by the Gram Panchayats and it monitors their functioning. Every development work under the area is coordinated by the Panchayat Samiti.

The main sources of income of the Panchayat Samiti are the annual grants provided by the state governments, Zila Parishads and other local authorities, government or private loans mobilized by the Samiti, levies, taxes and fines collected from the area, fees for different services and from registration of vehicles and licenses and shops and market places, etc.

3.3.3 Gram Panchayats

The Gram Sabha is a meeting of all adults who live in the area covered by a Panchayat. Anyone who is 18 years old or more and who has the right to vote is a member of the Gram Sabha. Every village Panchayat is divided into various local units or smaller areas. Each area elects a representative who is known as the member for the Gram Panchayat. All members of the Gram Sabha also elect a Sarpanch who is the Panchayat president. The members and the Sarpanch form the Gram Panchayat. The Gram Panchayat is elected for five years. Every Gram Panchayat has a secretary, who is also the secretary of the Gram Sabha. This person is not an elected person but is appointed by the government. The secretary is responsible for calling a meeting of the Gram Sabha and Gram Panchayat and keeping a record of the proceedings.

The Gram Sabha is the key factor in making the Gram Panchayat play its role and be responsible. It is the place where all plans for the work of the Gram Panchayat are placed before the people. The Gram Sabha prevents the Panchayat from doing wrong things like misusing

money or favouring certain people. It plays an important role in keeping an eye on the elected representatives and in making them responsible to the persons who elected them. Some of the main responsibilities of the Gram Panchayat are: construction and maintenance of water resources, roads, drainage, school buildings and other common property resources. Levying and collecting local taxes and executing government schemes related to generating employment in the village.

The main sources of funds for the Gram Panchayat are in the form of local taxes that are collected from houses and village markets and government funds released for various schemes of development and social justice. These funds are received through various departments. Donations for community works and fees are one major source of the income of the Gram Panchayats.

3.3.4 State Finance Commission

In the Balwantrai Mehta Commission there was a provision of the formation of the state finance commission in order to strengthen the financial health of the local self-governments. The Sarkaria Commission on the centre-state relations too pointed out its need. The main motive of all these recommendations was to deal with the chronic dependence of Panchayats on the state governments for funds, which made them dysfunctional. This is because most of the state governments do not release adequate funds to the Panchayati Raj Institutions due to various reasons. The economic independence of Panchayats is the first condition of their better functioning. Keeping this in mind the 73rd and 74th Amendments have had provisions for the state finance commission in every state, which will suggest ways for the distribution of finances between state and local bodies.

According to Article 243 I, the governor of the state shall constitute a finance commission, once in every five years for the review of the financial position of the Panchayats and to make recommendations to the governor of the principles of the distribution of income from different sources, between the state and the Panchayats. This commission will also recommend the ways of division of responsibilities for the collection of various taxes between the two. It will also decide the amount of the grant to the Panchayats from the state-consolidated funds. The state legislature can pass a law providing the structure and qualification of this body. The state finance commission is therefore a replica of the central finance commission.

3.4 SUMMARY

- Panchayats had been there in India since very ancient times. They had been a form of rural government. In modern time they were reintroduced by the British administration in the late 1880s.

NOTES

NOTES

- However, the introduction of Panchayats by the British government was more of a revenue-generating body than a self-government institution.
- Our national leaders, including Mahatma Gandhi were very big supporters of the Panchayats.
- In the aftermath of independence, however, our government failed to implement a universal Panchayati system in India due to various reasons.
- It was only after 1992, that the 73rd and 74th Amendment acts introduced the real Panchayati Raj system in India. It is the third tier of the Indian Government and it has a three-tier system, Gram Sabha or Gram Panchayat, being the most important link between Panchayat and the people.

3.5 KEY TERMS

- **Decentralization:** A social process in which population and industry moves from urban centres to outlying districts
- **Panchayati Raj:** A rural political system mainly in India, Pakistan and Nepal, which literally means an assembly of five wise and respected elders, chosen and accepted by the village community
- **Taluka:** An administrative unit in rural India, equivalent to a town
- **Tehsil:** A sub-division of a district
- **Panchayat Samiti:** A local government body at the Tehsil or Taluka level in India
- **Bureaucracy:** A system of government in which most of the important decisions are made by state officials rather than by elected representatives
- **Zila Parishad:** A local government body at the district level in India
- **Gram Panchayat:** Local governments at the village or small town level in India

3.6 ANSWERS TO 'CHECK YOUR PROGRESS'

1. The word, Panchayat, literally meant the assembly of five people.
2. The British India comprised of 804,965 square miles.
3. The Balvantray Committee recommended a three-tier system of rural local government: village Panchayats at the lowest level, Panchayat Samiti at the block or intermediary level and the Zila Parishad at the district level.
4. Zila Parishad is the highest local government body in the Panchayati Raj system.

5. Panchayati Samiti is the second tier of the rural local self-government under the Panchayati Raj system.
6. The main sources of funds for the Gram Panchayat are in the form of local taxes that are collected from houses and village markets and government funds released for various schemes of development and social justice.

NOTES

3.7 QUESTIONS AND EXERCISES

Short-Answer Questions

1. What was the first rural self-government body introduced by the British?
2. Which Article of Indian Constitution was related to the establishment of Panchayats before the 73rd Amendment?
3. When was the L.M. Singhvi Committee formed?
4. What was the main recommendation of Sarkaria Commission related to the Panchayats?
5. Which part of the constitution carries the provisions of 73rd Amendment Act?

Long-Answer Questions

1. Describe the evolution of rural self-government in India.
2. What were the recommendations of the G.V.K. Rao Committee to empower Panchayati Raj institutions?
3. Explain the structure, function and sources of finance of the rural local government in India.
4. Give a detailed account of the various sections of rural local government in India.

3.8 FURTHER READING

- Sirsikar, V.M. (1966), *Economic and Political Weekly*. Mumbai.
- Aslam M. (2007), *Panchayati Raj in India*. New Delhi: National Book Trust.
- Aslam M. (2005), *Local Self-Government in India—A Retrospect and Prospect in Federal India—A Design for Good Governance*. New Delhi: Manak Publications.
- Maheshwari S.R. (1976), *Local Government in India*. New Delhi: Orient Longman.

Website:

<http://lawmin.nic.in/ncrwc/ncrwcreport.htm>

NOTES

**Review of the Working of the Constitutional Provisions for
Decentralization (Panchayats)**

In its review of the working of Panchayati Raj in India, the National Commission to Review the Working of the Constitution (NCRWC) has raised several issues affecting the Panchayat system in India.

1. Irregular Elections

The mandate of the Constitution for holding regular elections to the Panchayats is clear and unambiguous. Clause (1) of article 243E stipulates that every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer. Clause (3) of the said article stipulates that election to constitute a Panchayat should be completed before the expiry of its duration as specified in clause (1). Thus, the Constitution provides for completion of the election just before the 5-year term of the previous Panchayat ends, so that transition to the newly constituted Panchayat can be a smooth process.

“It is a sad commentary on our respect for Constitutional norms and practices that State after State is being allowed to defy with impunity” the mandate to hold Panchayat elections on time (Mathew, 2001). Almost all the States, except West Bengal, Tripura and Rajasthan, are guilty in this respect. For example, Bihar took 8 years’ time after the 73rd Constitution Amendment legislation was passed to announce its first Panchayat elections in April 2001. Similarly, the States of Tamil Nadu, Kerala and Karnataka delayed their first election. When the five-year term of Panchayat was complete, postponement took place in Assam and Madhya Pradesh. Madhya Pradesh held the second election in January 2000, but Assam’s election remains due since October 1997. In Orissa, the State Government dissolved all the elected Panchayats before expiry of their term, but failed to hold elections within six months as stipulated in the Constitution. Gujarat postponed its gram Panchayat elections that were scheduled to be held in May-June 2000. Punjab has held up elections to the intermediate level and district level Panchayat since September 1999. The election to all the three-tiers of Panchayat in Andhra Pradesh was due in July 2000. Despite directives from the High Court and then from the Supreme Court, elections were not held. In Orissa and Uttar Pradesh, Panchayat elections were held after the Court intervened and gave direction. In the case of Andhra Pradesh, even direction of the Supreme Court failed to produce result.

The view that the Constitutional provisions with regard to the holding of Panchayat election are unambiguous and mandatory in nature has been vindicated by several judicial pronouncements.

2. Strengthening State Election Commission

One of the compelling reasons for making Panchayats and municipalities constitutional was to ensure regularity of election to these bodies. The objective does not seem to have been realised fully because of the stubborn resistance from a large number of States. By refusing to perform their Constitutional duty, the defaulting States have denied the people of their democratic right to elect their Panchayat representatives. This shows that legal instrument alone may not always guarantee realisation of the democratic rights. They have to be earned through various forms of 'public-action' in which people themselves have to play active role. Nevertheless, it is worthwhile to examine if further reforms in the provisions of law could improve the situation.

One can have no dispute with the provisions contained in article 243E. It is clear and the mandatory nature of these provisions has been reconfirmed by judicial pronouncements. In the light of the experience of last few years, it may however be fruitful to consider if there is scope to introduce reform in the provisions of article 243K. This article provides for the appointment of State Election Commissioner (SEC) for "superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats." (Similar provisions exist in article 243ZA for municipal elections). These powers are comprehensive and wide and they enable the SEC to conduct polls in free and impartial manner. However, clause (4) of article 243K empowers the State Legislatures to frame laws to regulate "all matters relating to, or in connection with, elections to the Panchayats". Once such law is there, SEC can exercise his inherent powers, subject to the provisions of such laws. Election rules/Acts of many States have armed the State Governments with powers relating to many vital election matters, such as, issuance of election notification, delimitation of constituencies, reservation of seats, rotation of reserved seats, etc. When holding of election gets delayed because of non-completion of such works on time, SEC remains helpless.

There is no inherent problem with article 243K relating to elections to the Panchayats or article 243ZA relating to elections to the Municipalities.

3. Functional Domain

Ever since the coming into force of the 73rd Constitution amendment, controversies have been raised about the kind of functions the Panchayats should discharge and powers and authority they should possess to perform the functions assigned to them. The root of such controversies lies in the rather vague nature of article 243G. The said article reads as under:-

"Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-

NOTES

NOTES

government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to:

- (a) The preparation of plans for economic development and social justice;
- (b) The implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

This article along with the Eleventh Schedule indicates the kind of functions to be discharged by the Panchayats. It does also probably indicate, as some observers assert, the nature of power and authority that the Panchayat should be endowed with. But the provisions do not go to the extent of specifying the 'functions', 'powers' and 'authority'. That task is left to the respective State Legislatures. Most of the State Legislatures in their turn have interpreted the provisions in a way that seem to be in contravention with the basic principles of democratic decentralization.

4. Institution of Self-Government

The Constitution has not elaborated the concept of 'self-government'. In order to derive the meaning and the implications of the concept, one has to take into consideration the context in which the expression has been used either in article 243G or in article 40. Viewed from that context, the term, 'self-government' must have two major attributes. Firstly, it is a Government by the people, that is to say, it is a Government which is democratically elected by the people. Secondly, an institution of self-government is, by its very nature, autonomous. This means that it is empowered to function without any outside interference. To be more explicit, within the boundary of the specific functions devolved upon it, an institution of self-government will have powers and authority to take decisions independently. Autonomy however is an elusive concept in a State where there are governments at multiple levels. Here Government at any particular level enjoys only partial autonomy. Accordingly, the functional autonomy of Panchayats has also to be partial. How much autonomy Panchayats should enjoy is, however, a matter of judgment as well as policy. The Constitution empowers the respective State Legislatures to adopt their individual policies in this regard based upon their own judgment of practical situation. But, they have to ensure that devolution of functions becomes as complete as possible and does not get reduced to a situation where Panchayats enjoy only such 'power' and 'authority' as may enable them to function merely as *agents* of the State Government. That clearly is not the intention of the Constitution, as it hurts the basic principles of democratic decentralization. What Part IX of the Constitution intends to bring about is 'devolution' type of democratic decentralization and not the 'deconcentration' or 'delegation' type of administrative decentralization under which the superior decision-making body retains various control including the power of

withdrawing the power and authority given to a lower body for administrative convenience.

5. Functions of Panchayats

The question as to whether the Panchayats are for development purpose only or for the wider purpose of governance is being debated for quite sometime. The notion that the Panchayats are for development purpose only was popularized by the Balvantray Mehta committee of 1957. The same view was endorsed by the Asoka Mehta Committee of 1978. All the policies of Government on Panchayati Raj from the 50's onwards also reflect such a view.

Nevertheless, there has always been an alternative school of thought represented by such eminent persons as Jayaprakash Narayan and E.M.S Namboodiripad. They held the view that the Panchayati Raj institutions should be considered as governments of local areas and therefore no distinction should be made between the so called 'developmental' and 'regulatory' functions of the State, while assigning functions to them. For a clear exposition of this view, it will be worthwhile to refer to the classic dissenting note of Namboodiripad in the Asoka Mehta committee report. "I cannot ... think of Panchayati Raj institutions" observed Namboodiripad in his dissenting note, "as anything other than the integral parts of the country's administration with no difference between what are called the 'developmental' and 'regulatory' functions. What is required is that, while certain definite fields of administration like defence, foreign affairs, currency, communications, etc., should rest with the centre, all the rest should be transferred to the States and from there to the districts and lower levels of *elected administrative bodies*". (GOI, 1978:163, emphasis added).

The above observation is a bold statement in favour of democratic decentralization under which the local self-government institutions will have a distinct role to play in the country's governance along with the Governments of the States and the Centre. Hence, in assigning functions to the governments at the three levels, the totality of government functions have to be considered and then division of powers and functions between them has to be made on the basis of the principle of subsidiary. Under such a situation what is required to be considered is what functions can be done best at what level. Whatever function can be discharged at a lower level without loss of efficiency should not be unnecessarily usurped by the government at the higher level. This is the essence of the idea of decentralization voiced by Namboodiripad or Jayaprakash Narayan. Hence, the question of drawing distinction between the developmental and regulatory functions for the purpose of devolution of functions to Panchayats has no place in such conceptualization. This view about the role of the Panchayati Raj Institutions (PRIs) shared by many today and has found systematic expression in the literature on Panchayati Raj.

NOTES

NOTES

How does article 243G stand against this? From a plain reading of the provisions of this article, particularly those in clauses (a) and (b) read with the Eleventh Schedule, it would appear that the Constitution reserves only developmental functions for the Panchayats. In Mukarji (1993) and Mukarji and Bandopadhyay (1993), however, we find a different view. According to the latter, that portion of article 243G which directs the State Legislatures to endow, by law, the Panchayats “with such powers and authority as may be necessary to enable them to function as institutions of self-government” has overriding force over the rest of the portions of the said article. Accordingly, they observe as follows:

“Our own view is that it is entirely within the competence of the State Legislatures to decide what powers and authority the Panchayats should have in order that they function as credible institutions of self-government. This was the Constitutional position all along; the Amendment served to reaffirm it. The introduction of the development motif in the Amendment, perhaps, limits the competence of the legislatures only in the sense of indicating the minimum that each State Legislature should transfer to the Panchayats. There is, in other words, a floor but no ceiling. How far above the floor a particular State may go is a question of policy for that State, bearing in mind that the Panchayats from now on are (1) Constitutional bodies and (2) institutions of self-government.”

Whether harmonious construction of article 243G leads to the above view is a matter of debate. As the later discussion would show, at least the conformity Acts of various State Legislatures do not subscribe to this view.

6. The Conformity Acts

By and large, none of the conformity Acts has tried to grapple with the concept of self-government. In fact, excepting the mandatory provisions of the Constitution, these Acts have nothing new to offer. We may examine Acts of a few States to illustrate the point.

Under the Gujarat Panchayat Act, the duties of village, Taluka and District Panchayats have been elaborated in three separate schedules. The list of functions as detailed in these schedules may appear to be impressive, but adequate provision for fund and staff has not been made in order to enable them to carry out the duties. Panchayats receive funds for departmentally determined specific projects. As a result, the PRIs function largely as agents of State Government. Their functional autonomy is highly restricted.

In Maharashtra or Tamil Nadu, there has been no attempt whatsoever, to alter the pattern of distribution of functions to the Panchayati Raj bodies. There is no reflection of the 11th Schedule in assigning functions to the Panchayats. What is more, the Maharashtra Panchayat Act empowers the State Government to ‘omit any entry’ or

add and amend any such entry, by an executive order, from the schedule of the Act that contains list of functions devolved to the PRIs. In the Rajasthan Act, a number of functions have been assigned to all the tiers of Panchayat, but the same Act confers power to the State Government to take away any such function.

Uttar Pradesh had made much noise on the issue of decentralization. The State had appointed an Administrative Reforms and Decentralization Commission. The Commission after studying the activities and functions listed in the 11th Schedule, identified thirty two departments of the State Government whose activities/functions could be shared with the gram Panchayats, Kshetra Samitis and Zila Panchayats. To examine the feasibility of these recommendations, the State Government appointed a committee of officials. After receiving the report of this committee in 1997, the Government had issued orders to twenty-eight departments for transferring some of their functions to the PRIs. But such transfer of functions has no operational significance, since all important decisions are taken as before by the respective departments.

In Orissa, the gram Panchayats have been assigned with impressive functions/activities of 43 odd items under obligatory and discretionary lists. But there is no provision for fund or staff to enable them to discharge such functions, thus making their statutory functional domain practically useless. Powers and functions of Orissa's Panchayat Samiti remain unaltered since the sixties and the 11th Schedule does not seem to have any impact upon them. The Gram Panchayats and Panchayat Samitis of the state have no power to prepare plans for their own areas, even though this right is constitutionally given to all such institutions.

In Andhra Pradesh also, the gram Panchayats and the Mandal Parishads are not required to plan for 'economic development' and social justice'. All the tiers of Panchayat have been assigned with large number of functions. But none of them has financial or administrative resources under their control to execute them. The Mandal Parishad has no control over the staff of Development blocks, and the Zila Parishad has no control over the DRDA which controls huge fund under various poverty alleviation programme.

West Bengal which claims to have a highly developed Panchayati Raj system has shown little respect for devolution type of decentralization following the Constitution amendment. Even though the State's conformity Act recognizes each Panchayat to be a 'unit of self-government', it keeps its earlier scheme of distribution of power unaltered. The Act provides impressive lists of functions which Panchayats may discharge, but does not make provisions either of untied fund or of staff. By executive orders the State Government allows the Panchayats to share implementation responsibilities of some of its projects/ schemes/ functions. Thus the Panchayats of the State have

NOTES

NOTES

to remain satisfied with only 'agency functions' which are, of course, substantial, but are incapable of exercising autonomy in its own functional domain as given by the statute.

Karnataka, Madhya Pradesh and Kerala are the States where some attempts have been made to ensure the growth of Panchayats as self-governing institutions. In 1997, Karnataka had amended substantially its original conformity Act of 1993. The amendments expressed explicit commitment for developing Panchayats 'as units of self-government', eliminated bureaucratic control over elected bodies, gave powers of delimitation of constituencies to the State election commission, made provisions for establishing a State Panchayat council with chief minister as chairperson and all the Adhyakshas of Zila Parishads as members to act as a forum for discussing matters relating to the functioning of Panchayats. Substantial staff and resources also are being transferred to the Panchayats. But, the situation cannot be called as satisfactory. Funds come to the PR bodies in tied form for the purpose of administering departmental schemes. Untied funds are not substantial and the Panchayats have little scope to launch programmes based upon their own initiative. They also have no effective administrative control over the Government staff transferred to them and they do not have their own cadres. Hence, despite some laudable attempts, Panchayats of the State perform mainly agency functions.

The original conformity Act of Madhya Pradesh only referred to the State Government's power of entrusting functions to the Panchayats in terms of the provisions contained in article 243G read with 11th Schedule. But, like before, the Act also provided that the State Government had the right to withdraw functions already assigned to the Panchayats. An amendment made in 1996 reaffirmed the position and provided that the Panchayats at different levels should have such power and authority as may be necessary to enable them to function as institutions of self-government in relation to the matters listed in the 11th Schedule. It also provided that the Panchayats should have the power to select employees necessary for implementation of the assigned functions. But such provisions were in the nature of general statement and could not be made operational in the absence of the statutory provisions that would entrust the PRIs with specific powers and authority. Since the Panchayat Act by itself was insufficient to carry forward the project of decentralization, the State Government has issued from time to time a series of executive orders for delegation of powers. As the matter stands now, responsibility for programmes/activities of seventeen departments has been transferred to the Panchayats along with staff and resources. Despite these efforts, Panchayats remain only implementing agencies of the schemes conceived by the State or Central Government. They receive funds which are mostly tied to specific schemes. The staff continues to remain with the Government even where full responsibilities of any function or activity have been stated to be transferred to the Panchayats. Even in respect of taking major decisions on

implementation, the district bureaucracy retains control. By far the greatest distortion in the process of decentralization has been made by making a State Minister the Chairperson of district planning committee and naming it as district Government. The concept of district Government as developed in M.P is a direct assault on the authority of the Zila Parishad.

Kerala appears to be the only State where a systematic and sincere effort is on since 1996 to carry forward the process of decentralization in its totality. Kerala's Panchayat Act as amended in 1999 is probably the best attempt to define the functional areas of different tiers of PRIs as precisely as possible, the objective being to reduce their agency role and expand their autonomous-actor's role. The Act has eliminated direct control of Panchayats by bureaucracy and reduced drastically Government control over them.

7. Devolution of Function

From a brief survey of the conformity Acts of different States, certain general conclusions can be drawn. Firstly, most States have shown lack of political will to decentralize. Taking advantage of the non-mandatory nature of article 243G in its operative part, as distinguished from its conceptual part relating to the idea of 'self-government', most States have chosen to keep the functional domain of Panchayats unaltered. Even the mention of the 11th Schedule functions in many State Acts does not alter the character of the functions assigned to them.

Secondly, the post-Constitution-amendment-Panchayats are operating, like before, within the framework of what may be called 'permissive functional domain'. That is to say, the State Legislatures do not carve out an exclusive functional area for the Panchayats, but merely permit them to work within the functional domain of the State, subject to such conditions as it may deem fit to impose. Excepting some municipal functions which are invariably given to the gram Panchayats, for all other so-called developmental functions assigned to the different tiers of Panchayat, there are specific line departments of State Government or parastatal bodies like DRDA. They handle these functions. They have access to necessary resources as also staff for the discharge of the functions. Mere statutory authority to undertake functions already being performed by the State Government is no guarantee that those would, indeed, be taken up by the PRIs, unless they have adequate funds and personnel to discharge them. Since these resources are not made available to them, the lists of various functions that every Panchayat Act religiously provides, remain sterile. What the 73rd Constitution amendment intended is 'exclusive' and not 'permissive' functional domain, backed up by resources for the Panchayats. That has not happened.

Even in the States which have shown political will to decentralize,

NOTES

NOTES

devolution has not gone beyond the implementation responsibility of the schemes/projects conceived by the State or Central Government. As a result, Panchayats have not blossomed into institution of self-government. Instead they have become one of the implementing arms of the State Government.

Lastly, all the States, except to a certain extent, Kerala, have chosen to assign functions not through the statute, but by delegated legislation in the form of rules or executive orders. The task of assigning functions to the Panchayats was given to the State Legislatures, but the same seems to have been usurped by the State Government. The Constitution failed to guarantee assignment of a set of exclusive functions for the Panchayats. Hence, the kind of role they would be expected to play in governance depends on the policies of the regime that controls the Government of a State.

8. Need for Constitutional Reforms

The State Legislatures, it is clear, have denied autonomy to the Panchayats. This is contrary to the expectations of those who held the view that the 73rd amendment has constitutionalized “three strata of governance of the country: the Union, the States and the Panchayats.” (Mukarji and Bandyopadhyay, 1993:6).

The concept of a third stratum of governance at the district level and below was voiced initially by Nirmal Mukarji (1986, 1993). Today, there are many who subscribe to the view that the Panchayati Raj institutions should be treated as governments for the respective local areas at the sub-state level, just as the State Government is the Government for the State and the Union Government for the whole country. They also hold that by making provision for enabling the Panchayats to function as ‘institutions of self government’, article 243G has practically introduced the ‘third stratum’ in the country’s federal structure. (Arora, 1995).

Practically, all the State Legislatures/Governments, except perhaps that of Kerala, has rejected this view. On the contrary, their vision of Panchayat, like before, has been one of ‘local authority’ that will enjoy such kind of delegated power and authority as may be given to them by the State Acts or rules and executive orders made thereunder. Again, such powers and authority could be exercised by the Panchayats, subject to such limitations and control, including bureaucratic control, as the State Government would like to prescribe. *What is singularly absent in the State Acts is the concept of ‘autonomy’ of Panchayats which is at the centre stage of conceptualization of the institution as the third stratum of governance. Also missing in the State Acts is the idea that Panchayats can be relied upon not only for developmental functions, but also for regulatory functions of the State.*

It seems that in the Constitution itself there are sources from which the State Legislatures/ Governments have derived their own

NOTES

understanding about the nature of self-government that Panchayat (or municipality) represents. In article 243G itself (as also in 243W in the case of municipalities), there are provisions for specifying 'conditions' while devolving power and responsibilities to the Panchayats (and municipalities). There is no check upon the State Legislatures in specifying 'conditions' upon the functions to be assigned to the Panchayats or municipalities. The power seems to be absolute, unless the provisions in the same articles regarding empowerment of Panchayats (and municipalities) for enabling them to function as institutions of self-government are considered to be possessing an overriding force. Clearly, this is a source of confusion. Another source of confusion arises from entry 5 of Seventh Schedule of the Constitution. Here, three terms have been used interchangeably, namely, 'local government', 'local self government' and 'local authorities'. According to the illustrations given, Panchayats or municipalities under this entry stand in the same footing as an Improvement Trust or any other local authority as defined in the General Clauses Act, 1897.

Thus, we are now faced with two types of conceptualization of Panchayats and municipalities. Both of them draw their strength from the Constitution. One type of conceptualization leads us to envision these institutions as constituting the third stratum of governance. Another takes us to the opposite extreme under which the Panchayats (and municipalities), subject to the Constitutional guarantee of their permanent existence, composition, election etc, are no more than a local authority as understood under the General clauses Act. *The Constitution has to categorically express the status of the 'institution of self government' as mentioned in article 243G or 243W.*

9. Financial Domain

As an institution of self-government, the Panchayat should have adequate fiscal capacity as well as substantial fiscal autonomy. The fiscal capacity may be defined as the capability of the Panchayat to raise financial resources commensurate with the functions assigned to it. In other words, the functions assigned to a Panchayat institution must match with the financial resources it is capable of raising from various sources including grants from the State Government. Fiscal autonomy, on the other hand, is the extent of independence the Panchayat has in raising and spending financial resources. This means that its dependence on the discretionary funding from the higher level Government for the discharge of its 'core functions' should be minimum, and on the other hand, it should not be unduly bound by the conditions of 'tied' grants coming from the State Government.

It was noted earlier that decentralization of governmental functions from the State to the local bodies has not taken place in the manner intended by the Constitution. Barring one or two, no State has made serious efforts in transferring functions, powers and responsibilities to the PRIs. This is also reflected in the expenditure decentralization ratio

NOTES

(EDR) which represents local government expenditure as percentage of State Government expenditure.

An exercise was done by Oommen (2000) to measure tax-revenue decentralization ratio, indicating percentage of local government tax revenue to total State Government tax revenue. It was found that out of 12 major States the tax revenue of local bodies (PRIs and urban local bodies) in 9 States constituted less than five per cent of the total tax revenue of State Government. In two other States, the ratio was higher, but less than 10 per cent. This indicates that the local bodies have not been given sufficient tax assignments to raise revenue locally.

In eight out of 12 major States, the GPs can meet not more than 12 per cent of their revenue expenditure from internal sources. When it comes to the case of all the three tiers taken together, the figure sharply goes down to below 10 per cent in 9 States and at or below 5 per cent in at least 6 States. An immediate impact of this is the lack of autonomy of the PRIs to finance from its own funds, the maintenance expenses of the core services, that is to say, water supply, street lighting, sanitation and roads. Expenditure on core services as a percentage of total revenue expenditure is low in all the States and below even one percent in a number of States. Similarly, very small portion of internally collected revenue is spent on core services.

To sum up, the following conclusions can be drawn from the above discussion.

- The extent of fiscal decentralization through the empowerment of the PRIs has been very little.
- The fiscal autonomy of the PRIs is far from adequate, because they cannot balance their revenue budget (not to speak of creating a surplus), by using their own fiscal powers.
- The PRIs are principally grant-fed and their dependence upon the State Government even for carrying out their routine functions is quite heavy.
- Among the three-tiers of Panchayats, the gram Panchayats are comparatively in a better position. This is so, because the GPs have some taxing power of their own, while the other two tiers are dependent only on tolls, fees and non-tax revenue for generating internal resources.

10. Tax Assignments

Article 243H is in the nature of an enabling provision that gives authority to the State Legislature to authorise the Panchayats in respect of levy, collection and appropriation of taxes, duties, fees and tolls as well as for the creation of a fund within the Panchayat institution to regularise and control inflow and outflow of financial resources. In effect, this article provides nothing new, but only reconfirms and institutionalises the practices that were in existence even prior to the enactment of the Constitution (73rd Amendment) Act, 1992. In other words, like before,

the prerogative to decide what taxes, duties, fees and tolls to be levied under legislation made under entries in the State List of the Seventh Schedule to the Constitution should be assigned to the Panchayat and in what manner lies with the State Legislature. The Constitution also permits the Legislatures of the States to put such 'conditions and limits' as they deems proper, before assigning specific fiscal powers. The said article also authorises the State Legislature to enact laws for enabling the State Government to give grant-in-aid to the Panchayats from the Consolidated Fund of the State.

What is significant is that the Constitution does not specifically earmark some of the fiscal powers of the State List either exclusively for the local government or under State-local concurrent jurisdiction.

11. Transfer and Grant-in-Aid

By far, the most novel provisions that brought the local government institutions in the scheme of fiscal federalism are contained in articles 243-I (for Panchayats) and 243Y (for Municipalities). They envisage the setting up of State Finance Commission (SFC) as soon as may be within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992 and thereafter after expiration of every fifth year in every State for reviewing the financial status of the Panchayats/ municipalities and for recommending measures to improve the same by restructuring, if necessary, the State-local fiscal relationship.

In making these provisions, it was rightly assumed that the financial viability of the rural and urban local bodies cannot be ensured only by assigning tax, duties, tolls and fees, for by their nature, they are less elastic and less buoyant. Transfer from the States' revenue as well as grants-in-aid would thus be necessary to supplement the finances of the PRIs and the municipalities. It is through such mechanism that the vertical imbalance and horizontal imbalance can be corrected in a federal polity. (The former refers to the mismatch between the revenue earning power and functional responsibilities of a unit of Government and the latter refers to the unequal development of areas falling under the jurisdiction of different governmental units). Accordingly, these provisions provide to States "a unique opportunity to redesign the existing fiscal system that is coherent and flexible enough to meet the rapidly changing local needs and responsibilities." (Mathur, 2000: 360).

Experience shows that some corrective measures are necessary to make the institutional mechanism of SFC more effective and purposeful. These have been brought into focus by the Eleventh Finance Commission as well as by some others. Some of the measures recommended relate to changes necessary in the State Panchayat laws. In some cases, executive interventions would be necessary. But, there are few areas where more fundamental changes involving Constitutional amendment seem to be called for.

NOTES

12. Decentralized and Participatory Planning: The Constitutional Scheme

NOTES

Preparation of plans seems to be the original function of Panchayats (and Municipalities). If this is so, implementation of schemes arising out of such plans should also fall in that category, even though it is not explicitly mentioned in clause (a) of article 243G. Such inference is logical since planning becomes merely a 'wish list' and, therefore, a useless exercise, unless it can be implemented. It cannot be the intention of the Constitution to entrust the Panchayats with a useless exercise. The subject of implementation is brought in clause (b). Does the provision in this clause mean that the Panchayats are entitled to implement only such schemes (of the State Government) as may be entrusted to them? In that case, the Panchayat's role will be restricted to that of an agent of State Government only, so far as implementation of development schemes is concerned. But, that certainly is not the intention. The Constitution has certainly given to the Panchayats implementation responsibility of both types of schemes - schemes originally conceived by the Panchayats in the process of preparation of plan as well as schemes of the State Government implementation of which may be decentralised. Sub clause (ii) of clause (c) of article 243W is more explicit and refers to both 'original' and 'agency' functions of municipalities. Thus, article 243G read with the Eleventh Schedule provides that (a) the Panchayats will make plans for economic development and social justice, (b) implement schemes and perform other functions arising out of that plan, and (iii) implement schemes as may be entrusted by the State Government to execute.

It seems that by decentralising the developmental functions, the Constitution seeks to correct two types of weaknesses of the country's macro-level development planning. One relates to the mismatch between growth and equity resulting into unjust treatment to the weaker sections of the people. The other is related to the absence of inter-sectoral coordination for pursuing a common goal. The Panchayat-municipality system is expected to contribute towards removal of both of these types of weaknesses.

In the mandate given to the Panchayats and the municipalities, the concern for social justice is noteworthy. 'Economic development and social justice' has been set as the goal of their development plans. Read conjunctively, the mandate is to pursue the growth and the equity objectives simultaneously. How to make it happen at the micro-level of Panchayats and municipalities, when, with all the resources at their command, the macro-level planners have failed to achieve this? The chances of promoting social justice brighten only when the victims of social injustice are themselves enabled to participate directly in the planning process. Participation of the weaker sections of people becomes easier at the micro-level of Panchayats/municipalities. But, even at these levels, the marginalised people may find it difficult to

register their voice. Hence, the Constitution has provided for safeguards. Firstly, the gram sabha in the case of gram Panchayats and ward committees in the case of municipalities have been given Constitutional recognition and the State Legislatures have been empowered (and, perhaps, also advised) to devolve power and functions to them. Secondly, the Constitution has provided for reservation of seats and posts of chairpersons for women and members of SC and ST people, so that they can have access to the power-structure of the local government institutions. Thus, the Constitution intends to usher in a regime of participatory planning at different levels of Panchayats as well as at the municipalities to remove the hiatus between development and social justice which unfortunately has taken place in India's top-down planning process.

By mandating the Panchayats to perform planning functions the Constitution has also tried to ensure institutionalisation of the concept of 'area plan' at the micro-level which will form building blocks of the macro-level planning at the State or national level. The 'area plans' are holistic plans for given areas and they cut across the identities of individual sectors. Such plan aims at horizontal coordination of different sectors in order to pursue a common goal. This goal as determined by the Constitution is economic development with social justice. It is evident that along with the participatory nature of planning process, the Constitution also aims at 'area plans' for optimum inter-sectoral coordination. Both of these objectives are meant to remedy the shortcomings of the country's macro-level plans.

A question may arise as to whether planning at each of the three levels simultaneously will lead to duplication of efforts, since area of a Panchayat Samiti overlaps with that of a gram Panchayat and similarly the jurisdiction of Zila Parishad overlaps with that of Panchayat Samiti. If the principle of subsidiary is applied also in the planning function, the danger of duplication may be avoided. Thus, a plan prepared at the level of Panchayat Samiti would be consolidated plans of all gram Panchayats under it plus some additional features which can be conceived/performed only at that level. These additional features may consist of (a) interventions that cover more than one G.P.; (b) projects that require technical expertise of superior level not available at GP, and last, but not least, (c) intervention that requires an over-all view of an area larger than that of GP (for example, developing market facilities). The last point is important, because as planning area expands from village-level plan to gram Panchayat plan, gram Panchayat plan to Panchayat Samiti plan, Panchayat Samiti plan to Zila Parishad plan, localist view has to gradually make space for taking a wider view. This is the way how peoples' perceptions and local needs or aspirations can be integrated with the technical requirements of plan through participatory multi-level planning process. It is felt that the intention of the Constitution is to institutionalise this process.

NOTES

NOTES

In construing the provisions relating to the planning function contained in article 243G in the manner shown above, certain inferences had to be drawn. But, such inferences, as will be seen, are quite logical and harmonious, if the various provisions relating to people's participation in decision-making through gram sabha, reservations for women and members of SCs/STs in Panchayats, assignment of planning function to the Panchayats, inter-linkage with different tiers of Panchayats, Constitution of State Finance Commission and inclusion of Panchayats/municipalities in the terms of reference of the Federal Finance Commission - all are considered together. There is a definite pattern and this pattern has to be kept in mind for logical and harmonious construction of article 243G and 243W. Unfortunately, no State other than the State of Kerala has shown 'political will' to translate this Constitutional scheme into reality. They have taken refuge under the non-mandatory and, at times, vague nature of the provisions in which the Constitution has expressed its scheme of decentralization of development functions.

13. Institutional mechanism for rural-urban integration

Only significant role that may be played by DPC in the existing framework of PRI-municipality system is one of rural-urban integration in the preparation of district plan. The Panchayats are for rural areas and the municipalities for urban areas. This institutional arrangement may work at the micro-level of village and town. But when it comes to the level of a district, the distinction disappears. A plan for the whole district has to combine both rural and urban areas. In Indian context, district is considered as meso-level, but there are many districts in the country, the population of which may be more than that of a small sovereign State. Planning technique applicable at the micro-level of village or small town will not suit planning exercise for the whole district. Many functions that towns perform as seats of industry, trade and commerce, provider of services, higher education, communication, etc. have to be taken into consideration, even while a district plan aims at economic and social sector development of the rural areas. Similarly, planning for urban areas has to take into consideration the situation of the rural hinterland they serve. In article 243ZD (3) (a) (i), the Constitution recognizes this problem and gives the direction that in preparing development plan for the whole district, the DPC should give due regard to the "matters of common interest between the Panchayats and the municipalities". Since the Zila Parishad which has a district-wise coverage caters only to the rural areas, necessity of DPC has arisen.

The problems with an institution like that of DPC have been discussed earlier and it has been shown that its position is, rather, incongruous with the pattern of decentralization sought to be institutionalised through the PRI-municipality system. Its role in coordination, particularly in the matter of rural-urban integration in the district plan, is recognized. But, for this, an institution like DPC is not

absolutely essential. This task can be performed at the level of Zila Parishad by expanding its jurisdiction to the whole district. It may be conceived as the institution of self government for both rural and urban areas of a district. In that case, ZP's members would be elected by the people of the entire district-rural as well as urban. Under such a scheme, rural-urban distinction among local government institutions will remain for individual municipalities and the Panchayats upto the intermediate level. At the district level, this distinction will disappear and the local government institution at that level will represent rural as well as the urban people.

If the jurisdiction of Zila Parishad covers the entire district, the mandate of preparing the district plan may be given to it. This plan will be an integrated plan for the district as a whole combining both rural and urban areas.

There will still be a need for a body like DPC. Firstly, experts' advice has to be made available to the elected representatives of ZP in order to enable them to make sound judgement on developmental policies and programmes. Secondly, involvement of State Government officials will be necessary in the preparation of district plan, because, even after decentralization, the line departments will have to retain with themselves some functions to be executed fully or partially within a district. These relate mostly to the projects spread over more than one district or which require expertise and organizational strength of high degree or which have implications for the State as a whole. DPC may be formed with experts, Government officials and activists/social workers, but it should be constituted by the Zila Parishad in accordance with guidelines in the State Act. Its tasks will be (i) to prepare draft district plan after consolidation of the individual plans of gram Panchayats, Panchayat Samitis and municipalities for consideration of the ZP, (ii) to assist the Panchayats and municipalities to prepare their plans, (iii) to coordinate district planning exercise with that of the State Government. The details of the constitution of DPC may be left with the respective States. There may be an enabling provision in the Constitution. MPs and MLAs of the district may be associated with the DPC.

14. Gram Sabha

The significance of the concept of Gram Sabha as a body of all adult people of the village does not seem to have been fully grasped. It, therefore, receives a casual treatment in the State Acts.

The gram sabha is not conceived as an organization that is required to perform certain tasks in order to realise specific goals. It is a forum for registering 'voice' of individual citizens in the process of decision-making on matters that affect their lives. Here lies its uniqueness. Our democracy — like democracies of all large countries — is based on the principle of representative government. Gram Sabha is the only forum where people can take part in 'direct democracy'. It can be used by the people for collective-thinking and over-seeing as well as

NOTES

NOTES

participating in the activities of gram Panchayat. In a more practical sense, it may conduct social audit of gram Panchayat, take collective decisions on village-level plans and collaborate with gram Panchayat in implementing its programmes. A vibrant gram sabha has the potentiality of realising the vision of participatory governance at least at the level of the village.

Article 243A stipulates that “gram sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may by law provide”. The State Legislatures have, by and large, provided it with only a peripheral role. In most of the State Acts, the jurisdiction of the gram sabha covers the following:

- To consider matters relating to the annual administration report, the annual statement of accounts, the budget, the report on development works, etc. of the gram Panchayat;
- To discharge such functions as raising voluntary contribution, promoting unity and harmony in the village, adult education, identification of beneficiaries, etc.

Some States are experimenting with the idea of giving wider powers and functions. An amendment of Madhya Pradesh Panchayat Act which came into force on 26th January, 2001 has given a range of functions to the gram sabha. To discharge these functions, there shall be eight standing and other *ad hoc* committees. Kerala has involved gram sabha in its people’s plan campaign. West Bengal is considering introduction of a model of participatory planning under which the *gram sansads* (roughly wards of gram Panchayat) will play a substantial role in preparing gram Panchayat’s plan. The gram sabhas of Orissa and Rajasthan have been given power to approve the GP’s plan and budget.

Barring exceptions, the gram sabha in most States is treated as a recommendatory body. Common people naturally do not find interest in attending its meetings. In many States, the gram sabha meetings are not held regularly. Since they are given only the power to recommend and no power to approve what the gram Panchayat seeks to do, the Sarpanchs are under no compulsion to treat gram sabha seriously. Either the meeting would not be called or their recommendations would be ignored.

Experience of the last eight years of the post 73rd Constitution amendment phase shows that gram sabha is yet to emerge as a forum where common people can participate in the process of collective decision-making. A major reason for this is, of course, the nature of power-relations that operate in rural society under which large sections of people remain in a disadvantaged position because of their lower social or economic status. At the same time, the political empowerment that a forum like gram sabha confers to the ordinary men and women can go a long way in removing caste, gender and class barriers that stand in the way of their participation in the process of collective decision-making. For this to happen, the gram sabha itself has to be made

powerful. It has to play a vital role in the functioning of gram Panchayat. It should not be reduced to a decorative forum to make recommendations only. It has to be given substantial authority to influence the functioning of gram Panchayat effectively.

Since the practical situation differs from State to State, it is not possible to make Constitutional provisions on the specific functions and powers that should be given to the gram sabha, but *the Constitution should explicitly indicate its intention to allow the Gram Sabha to play substantive role in the functioning of gram Panchayat.*

15. Personnel System

An institution of self-government must have its clearly demarcated field of activities, free from outside interference, financial capacity and autonomy to perform these activities, as also the power to recruit and control the officers and other employees required for managing its functions. Staff is a collective term for resources that an organization must possess to perform its day to day activities and execute its decisions. Access to and command over the human resources is therefore an essential element to measure the kind of autonomy that an institution of self-government enjoys. Judged from this point, the Panchayats present a disquieting picture. It is necessary to note that Part IX and Part IXA of the Constitution are totally silent about this vital aspect of institutional autonomy. Failure to address the human resource issue has definitely affected the growth of Panchayats as self-governing institution.

There are three varieties of personnel system for the local government institutions in India namely: (i) separate; (ii) unified; and (iii) integrated. Under the separate system, each local government unit has full control over matters concerning recruitment, control and discipline of its staff. Under the unified system, State-wise or region-wide common cadres of some or all categories of staff of local government are constituted. Such cadres are fully managed by the State Governments. In the integrated system, the State Government employees and the local government employees come from the common cadre managed by the State Government. It is only in separate system that the local government institution has total control over its staff. In the other two systems, it has no power to recruit or to dismiss its staff and even in the day-to-day management; its power to control personnel is severely limited in the unified system and negligible under the integrated system.

Ideally, a self-government should have a separate personnel system. It is significant that even the local self-government institutions with limited powers that came into existence in the wake of Ripon Resolution of 1872, namely the Municipalities, District Boards and Union Boards, enjoyed practically full powers in respect of recruitment, control and discipline of their staff. The present day municipalities are, by and large, continuing that tradition, even though their autonomy in respect of personnel management has been seriously circumscribed by their

NOTES

NOTES

dependence, in most States, on the State Governments which are paying staff salaries and allowances. The PRIs, on the other hand, have to depend upon the Government officials for staff support, whatever may be the organizational arrangement – unified or integrated. In some States, the Panchayats have been given power to create posts or to recruit their own staff upto a certain level. But in the absence of financial solvency this power remains grossly under utilised or non-utilised. Before we take up the issue of reforms in PRIs' personnel system, it will be worthwhile to take stock the situation as it obtains in different States.

16. An Overview of Panchayat's Personnel Structure in Different States

In West Bengal's gram Panchayat, there is a Secretary and a Job Assistant, both of whom are recruited, trained and controlled by the State Government. They enjoy government pay scales and their salaries are paid by the Government. The Panchayat Samiti does not have separate staff excepting one clerk who is also appointed by the State Government. The rest are staff of Block Development Officer drawing salaries from the State Government. The services of none of the staff including that of the BDO have been transferred to the Samiti. They remain full-fledged Government staff. In Zila Parishad, the CEO is the collector who hardly finds time to the work of the Parishad. There is an Additional Executive Officer, but he also is not a full-time officer, as he holds the *ex-officio* position as Additional District Magistrate. There are one Secretary, one Executive Engineer and one Accounts Officer all of whom come from the State Government cadres of different departments. There is some staff including one district engineer and a few engineering officers, as also some other subordinate staff who belong to the Zila Parishad, but all vital matters in respect of them like creation of posts, fixation of pay and allowances, etc. are controlled by the State Government. Thus in matters concerning personnel, West Bengal's PRIs are totally dependent on the State Government.

In Orissa, the situation is highly unsatisfactory. Here Zila Parishad is practically non-functional for lack of staff. Law provides that the staff of DRDA would work for Zila Parishad, but they prefer to take orders from the Collector rather than from the chairperson of Zila Parishad. In Panchayat Samiti, there are a number of Government officials including the teachers. But, the Samiti has no administrative control over such staff. They are controlled by the respective departments to which they belong. The gram Panchayat has not been given any Government staff. Subject to the approval of the district bureaucracy and/or the Directorate of Panchayat, the gram Panchayats may recruit their Secretary and other staff. But since, they have to meet full or at least 50 per cent of the staff salary, the GPs are unable to recruit full-time quality staff. In a study it was noticed that GPs were paying their secretaries consolidated pay of a little over ` 1000 per month. What service can be expected from such poorly paid staff? (ISS, 1998).

In Karnataka, the Panchayats have no power of recruitment, transfer and discipline over their staff. In this State, the Zila Parishads and Taluka Panchayats are packed by the State Government officials. This results in dual loyalties and needless friction in the day-to-day working of Panchayats. Only gram Panchayat have power to recruit their own employees, provided their salaries are paid from their own resources. Own resources being insufficient, this power remains grossly underutilised.

For the gram Panchayats of Andhra Pradesh there are executive officers who are State Government employees. In most cases, one Executive Officer serves 3-4 gram Panchayats. Gram Panchayats have power to recruit their staff, subject to various bureaucratic controls. But, because of financial weakness, they cannot pay adequate salaries to attract competent and full time staff. A study showed that a gram Panchayat was paying its own staff salaries ranging between ` 500 and ` 1500 per month. (ISS, 1998). At Mandal Parishad – the intermediate level Panchayat – there is one Mandal Development Officer, one Engineering Officer and one Education Officer. All are Government servants. The staff of various development departments like agriculture, industry, veterinary, cooperation, etc are outside the Mandal Parishad. The Zila Parishad has considerable organizational capacity, particularly in respect of engineering personnel all of whom including the Chief Executive Officer are Government officers. There is, however, conspicuous absence in Zila Parishad of the staff of various development departments.

Maharashtra has the distinction to create 'district service' (technical and general) of respective Zila Parishads. The staff belonging to class III and class IV categories in different levels of Panchayat belong to such service which is controlled by the Zila Parishad, subject to the rules framed by the State Government. All other members of staff are Government employees deputed to the Panchayats at different levels. Village Development Officer (erstwhile *gram sevak*) who act as Secretary to gram Panchayat is recruited by Zila Parishad and belongs to the district service. In introducing the concept of Zila Parishad cadres as early as the sixties, Maharashtra broke new grounds and opened up exciting possibilities of building up Panchayat bureaucracy in a manner different from its counterparts in the Union and the State Governments. But this did not happen. A powerful bureaucracy at Zila Parishad level consisting of Government officials and headed by a senior IAS officer concentrated all administrative powers, leaving elected representatives with little control over their staff. Hence, even after working with the system of Zila Parishad cadres for more than three decades, working relationship between the officials and elected representatives has not yet developed. There is a sense of distrust among the elected representatives. They feel that "decisions are thrust upon them by officials under the guise of laws and rules. As the power of recruitment, promotion, transfer and control over day-to-day work lie with the CEO

NOTES

[Chief Executive Officer of Zila Parishad], the elected representatives feel powerless.” (ISS, 2000: 194).

NOTES

As in other States, the Chief Executives of Zila Parishad and the Janpad Panchayats (the intermediate level Panchayat) of Madhya Pradesh are Government officers. There is no separate cadre of Panchayat service in the State. The gram Panchayat secretaries (except a few gram sahayaks recruited earlier by the Government) are appointed by the gram Panchayat on a small monthly remuneration. Power and responsibilities of some functions of several departments of the State Government are stated to have been transferred to the PRIs, but the staff attached to them continues to remain with the Government. The Government is reluctant to transfer any staff to the Panchayats due to likely resistance from them (ISS, 2000: 178).

UNIT 4 PROBLEMS AND PROSPECTS OF LOCAL SELF-GOVERNMENT IN INDIA

NOTES

Structure

- 4.1 Introduction
- 4.1 Unit Objectives
- 4.2 Problems and Prospects of Rural Self-Government in India
- 4.3 Problem and Prospects of Urban Local Self-Government in India
- 4.4 Summary
- 4.5 Key Terms
- 4.6 Answers to 'Check Your Progress'
- 4.7 Questions and Exercises
- 4.8 Further Reading

4.0 INTRODUCTION

The introduction of local self-government in India after independence was motivated with twin objectives of socio-economic and political development. The initial reluctance among the bureaucrats and political elite to share their power with people at local level was the main reason of the limited or no success of the local self-government in India. This reluctance was much due to the lack of democratic culture among the political elite than anything else. The other reasons of the failures of the local self-governments in India such as financial restrictions, and lack of political training etc. were mainly a result of lack of political will and willingness. Gradually these apprehensions about sharing power with local people gave way to the sense of getting benefit out of it. Once it was realised that local self-government institutions can provide good avenues for the political and economic advantages most of the politicians started advocating the need of strong local self-government institutions paving the way for the 73th and 74th amendments in the Constitution.

In the aftermath of these amendments there has been a great rise in the popularity and power of the local self-governments in India. The rural local self-government or Panchayats have got tremendous powers and funds. Now there is a clash of interests between different dominant groups in local areas for the dominance on the local bodies. It is giving way to violence in local bodies elections. Despite the fact that Panchayats have got enough power to be an efficient agency of democratic participation and development their autonomy is still under question. The 'self' in local self-government is not that prominent as most of the local bodies are by and large dependent on the state

NOTES

governments which are themselves dependent on the central government. This creates an indirect dominance of central government on the local self governing institutions. Another major problem with the local self-government in India related to wide spread political apathy among the people due to lack of education and also due to widespread cynicism. This cynicism is a result of the widespread corruption in the local bodies.

Despite the fact that most of the local governing institutions have various problems there are some ray of hopes. The most prominent of these is the power of the local self-government to provide social justice. The reservations provided to SCs, STs, OBCs and Women in these bodies have completely challenged the dominance of a small upper class and upper caste male section in politics. At least in the local level there is real distribution of political power in India. Another major achievement of the local self-government in India is the real growth of political education among the people. The provisions of elections at the local level have empowered the people and have helped them to come out of the traditional apathy and cynicism. The local self-government in India has created a real strength of democracy in India.

In this unit we are going to study the problems and prospects of local self-government in India. As we all know that it has been long since India had adopted the concept of local self-government. In the last few decades almost all parts of the country have also followed an almost universal structure of the local government. In this unit, we are going to see the achievements of the local government in India as well as its main failures. At the end of the unit we will also examine its prospects.

4.1 UNIT OBJECTIVES

After going through this unit, you will be able to:

- Explain the problems and prospects of rural self-government in India
- Explain the problems and prospects of urban local self-government in India

4.2 PROBLEMS AND PROSPECTS OF RURAL SELF-GOVERNMENT IN INDIA

If a major device for rapid economic development is centralised planning, democratic decentralization could be described as a major device for dispersing power and for stimulating political development. It must be realised that the enthusiastic participation of voters in the general elections is not enough for the growth of a democratic community. The unsatisfactory state of the much advertised community development

programme was another factor which contributed to the rethinking of the leaders. The publication of the Balwantrai Mehta Committee Report on democratic decentralization in 1957, gave an impetus to the decentralization process, now known as Panchayati Raj. But certain problematic tendencies could be observed even in the initial stages. What followed was a brief account of these tendencies. It is noteworthy that the Panchayati Raj institutions have evoked a certain enthusiasm among the rural masses, who now appear to believe in 'swaraj' (self-government) as an experience of their day to day life. Elections to the three-tiered institutions are brought forth 'new rural elites'. These non-westernised 'sons of the soil', have more in common with the rural masses than with the westernised elites of urban India, whether bureaucratic or political. It is not to say that 'vernacular-speaking' leaders have replaced the 'English-educated'. In all probability, many of the new rural elites are conversant in English as well. What is significant about them is that they have strong roots in the villages. The understanding of western democracy by the 'English-educated' elites was mainly confined to the above institutional and to some extent mechanistic aspects. Hence, the emphasis in the Indian Constitution on parliamentary democracy, universal franchise, independence of the judiciary and so on. But when these institutional arrangements had to function in a non-western political culture, there were in fact three different political idioms operating together—the western, the traditional, and the saintly. The Indian Constitution envisaged only the first; while the politics of India could be said to be mainly under the influence of the other two political idioms.

It might be said that the rural leaders could successfully use two political idioms—the western and the traditional. The western political idiom had to be used when the Zila Parishad chairman dealt with the secretary of the department of rural development of the State Government. The same was true of the other civil service personnel, both at the district level and at the Panchayat Samiti level. The westernised bureaucrats even after 60 years of independence have scrupulously adhered to the British tradition of impersonal government. The new recruits to the Indian Administrative Service generally come from the same urban and westernised social classes as before 1947. Thus the western idiom of politics and administration will continue to operate for obvious reasons. The Panchayati Raj institutions mostly function in a traditional set up. Largely illiterate peasants are drawn into the politics of development. If leaders of Panchayati Raj institutions use the western idiom to communicate with the rural masses, there would be a breakdown of communication. The use of the traditional idiom is therefore a necessity. Undoubtedly, there is an inherent danger in this practice, however, so far as political development is concerned. The continuous use of traditional idioms might result in the strengthening of traditional bonds of caste and kinship, and thus obstruct the drive towards equality.

NOTES

NOTES

Today, the new rural elites perform a significant function in political development. The new elites are bridging this gap to a certain extent. They are mass oriented and verbally committed to the new ideas of economic development, universal education, social equality and democratic politics. This commitment results from their belonging to political parties. Verbalization of values may not have much operational content but it starts the percolation process of party-ideals. Political participation and social mobilisation are regarded as necessary for a modern nation-State, whether democratic or authoritarian. India has chosen the more difficult way of a democratic set-up. But political participation cannot be ordered. It has to be voluntary. Such voluntary participation requires stimulus. It could be said that the Panchayati Raj institutions, by and large, are successful in stimulating the rural population. To some extent, this participation might be the result of traditional loyalties. But the emergence of rival parties and elections will gradually change the character of the participation. Social mobilization in different form including the *shramdan* (voluntary labour) for a village school or an approach road is another indication of the impact of these institutions. Adult literacy campaigns, with the target of making the whole village literate are catching, the fancy of the villagers. The response to nationally initiated drives-small-scale savings, use of new techniques of cultivation, fertilisers, use of contraceptives-are other encouraging signs of social mobilisation and political development.

There has been some criticism of 'pollution of village-level life by the introduction of party-politics. Without indulging in any idealisation of political parties, it could be generally agreed that the party is a modern integrative agency in every developing country. In India, the predominance of one party among a few smaller parties has persisted since independence. This might not exactly accord with the pure theory of parliamentary democracy, but in a certain sense it has given this country a stable non-authoritarian Government. Opposition parties, though weak, still exert a certain restraint on the party in power, and thus, prepare the people for a more intelligent understanding of political issues. Comparisons with other third world countries could spotlight the democratic character of Indian politics and Government. The 'capacity of a political system' depends primarily on the quality, training and socialization of the leaders at various levels. Before Independence, a steady flow of leaders came out of the nationalist movement. The struggle with the imperial power naturally demanded a certain amount of sacrifice, and there developed a tradition of sacrifice among those who would be leaders in the field of politics. The drying up of this tradition of sacrifice - a tradition which had provided the generation of leaders like Gandhi, Nehru, Patel and many others was to be expected. At first, the tradition was continued by the dwindling ranks of the Sarvodaya group. Vinoba Bhave could be regarded as the last of those leaders who could inspire a tradition of sacrifice. But the community needs a constant supply of leaders to take up the responsibilities of political direction.

The successful working of Panchayati Raj institutions might create a new catchments area for new political elites. These institutions are capable of inducting new classes of population into politics. The working of these institutions might give people some experience in policy-making and political bargaining. And in time these institutions may prove to be the infrastructure of a mass democracy in local and State politics. It is to be expected, however, that the new leaders would be more power-oriented than sacrifice-oriented. But in a growing democracy, what is expected of a leader is his capacity to get things done, rather than his inclination to sacrifice for society. With a developing economy and centralised planning, leadership at the district and lower levels will have to exercise its ability in the 'politics of bargaining'. It might be impossible, however, to establish a tradition of expertise to substitute the tradition of sacrifice in this country. People will have to be gradually prepared to accept as leaders those men who have proved their ability in different fields of life. With the rising tempo of economic development, the importance of expertise would have to be recognised at all levels of politics.

Democratization of politics may be regarded as one of the indicators of political development. Yet democracy could be the most difficult form of government. In practice, however, a democratic set-up may not differ very much from a responsive, constitutional oligarchy. It could be argued that the result of costly elections, political parties organized according to oligarchy, clever use of charisma, and absence of vertical and horizontal social mobility, is not very different from a responsive, constitutional oligarchy. In the circumstances democratic decentralization could be regarded as an effort at democratising oligarchic politics. It is too early to assert that this effort has succeeded. But it is certain that there is a great change in what is called the catchments area of leadership groups. This may gradually affect social mobility and the oligarchic structure of the ruling elite. It could thus be argued that democratic decentralization is an insurance against possible political decay. The role of Panchayati Raj institutions in socio-economic change is not any less consequential. Functions performed by Zila Parishads to bring about socio-economic change could indirectly contribute towards political development. The role of local institutions in industrialising rural areas would be crucial to both economic and political development. An agro-industrial society would be in a vantage position to bridge the gap between the rural and the urban areas. This would correct the imbalance between the urban and the rural sectors, both as regards economic growth and political development.

The role of the bureaucracy in India has a special significance from the point of view of political development. The existence of a well-organised civil service in 1947 contributed to the political stability of Indian democracy and also to its political development afterwards. The bureaucracy is considered a modernising agency in nearly all the developing countries. It could be said that the British legacy of the 'steel

NOTES

NOTES

frame' and the silent service, came in handy for the new leaders of government, both at the centre and in the States. At the same time, this unbroken tradition of the civil service meant the continuation of its limited role of administering law and order, though in the changed context of a welfare State holding the ideal of a socialistic pattern of society, the civil service was expected to play a more positive role than before. Through the experiment in democratic decentralization an attempt is being made also to orient a law and order bureaucracy towards social welfare and economic development. Civil servants are being groomed to deal with the representatives of the people at the lower levels of administration. This interaction, between the westernised administrative elites and the rural political elites, might help the political development process. If political development demands specificity of functions and specialisation, this could be provided by the administrative elites. The new political elite on the other hand, would learn the procedures and processes of administrative machinery at close quarters. This does not mean that the present situation is in any way an ideal one. There have been many complaints about frictions between the political and administrative elites. To some extent such friction is to be expected as the civil service is not used to taking orders at the district level from the representatives of the people.

The civil servants allotted to Panchayati Raj institutions resent the loss of status, real or imaginary. Clearly, the proper psychological atmosphere for a growing partnership between the representatives of the people and the bureaucracy is yet to evolve. The main difference which democratic decentralization has brought about in the structure of local self-government institutions is the pre-eminence to the representatives of the people. One may expect over a period of years a much better understanding between the two sectors of the political structure. The constant interaction referred to above, would result in democratising the administration and modernising the political elites. These two consequences could be considered the most useful aspects of democratic decentralization operating today. The functional decentralization, envisaged in the present set up, might gradually lead to an effective decentralization of political power and administrative control. This would stimulate democratic growth, in terms of local initiative, autonomous functioning of Panchayati Raj institutions, increase in their functions, and political education of the masses.

We have now experienced a whole decade of economic reforms. But these reforms have hardly touched the lives of the common people. Even if there is no great anger against reforms on the part of the people at large, there is no enthusiasm either. This is because the reformers regard Panchayati Raj as being as irrelevant to their purposes as the people regard reforms as being irrelevant to their lives. Reformers have no great objection to Panchayati Raj; the tragedy is they regard Panchayati Raj as a sideshow. Not until economic reforms are integrated with planning and implementation through institutions of self-government

will grass roots empowerment lead to grass roots development. This then is the right moment to ensure that both move together in tandem. Indeed, Panchayati Raj needs to be made the fulcrum of the reform process. Part IX ('The Panchayats') and Part IXA ('the Municipalities') are the longest and most detailed amendments made to the Constitution since its promulgation more than half a century ago. If implemented in letter and spirit, the two parts hold the promise of a silent revolution that would dramatically alter the outlook for grass roots development through grass roots democracy by endowing power to the people, in both rural and urban India. Unfortunately, in the eighteen years that have passed since the Lok Sabha and the Rajya Sabha passed the legislation on December 22 and 23, 1992, respectively, and almost the same period have passed since Part IX was gazetted with the president's consent on April 24, 1993 (and Part IXA the following month) the results on the ground have fallen far short of expectations.

Gandhiji's dream of *Poorna Swarajya* through *Gram Swarajya* still remains a distant dream. The reasons for these are many. Although the overarching aim of Part IX is to "endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government" (Article 243G), barring a few exceptions, such as the state of Kerala, almost nowhere in the country has a sincere and serious attempt been made to ensure in practice that Panchayats function as 'institutions of self-government'. Panchayats can fulfil their responsibility as institutions of self-government only if devolution is patterned on a nexus between their functions, functionaries and finances. Very few states have linked the formal devolution of functions to the means for actualizing such devolution through the devolution of functionaries and finances. The Planning Commission must prepare a Devolution Index, which will enable a measure to be taken of the actual degree of devolution achieved, so that the best practice becomes the ideal towards which all states strive, with the encouragement and support of the centre. There is a disturbing lack of clarity about the tasks to be entrusted to different tiers of the Panchayati Raj system. Some states like Karnataka and Kerala have shown the way to how different functions can be entrusted to different tiers and how the work of the different tiers can be synergized to the benefit of the system as a whole.

Each state government must establish an appropriate body to recommend the division of devolved functions (along with functionaries and finances) to different tiers of the Panchayati Raj system. The central government might set the tone with an indicative model prepared by an appropriate central body. In view of the clear direction given by the Constitution to enable the Panchayats to function as institutions of self-governance, it is no longer necessary for the centre to route its financial support to schemes pertaining to the Eleventh Schedule of the Constitution to the Panchayats through the state governments. In a very large number of instances, funds for rural development and poverty

NOTES

NOTES

alleviation appear to have been diverted, at least temporarily, to meet the ways and means requirements of state governments, leading to inordinate delays and even the lapsing of funds meant to be spent through the Panchayati Raj institutions. The central government must channel all funds for central and centrally-sponsored schemes falling within the ambit of the Eleventh Schedule direct to the Panchayats at the appropriate level. With the entry into force of Part IX, the pre-Part IX instrument of the District Rural Development Authority (DRDA) has become obsolescent and needs to be ended, especially as the DRDA is inimical to the fundamental objective of Part IX which is the establishment of institutions of self-government.

In the interests of effective Panchayati Raj, as envisaged in the Constitution, DRDAs should be disbanded and merged with district Panchayats, with the chairperson of the district Panchayat as chairperson of the merged DRDA. Moreover, with the clarification of which functions, functionaries and finances are to be devolved to which tier of the Panchayati Raj system, intermediate and village-level bodies with duties paralleling those of the existing DRDAs would need to be set up at these levels, so that state and central finances are channelled to the appropriate tier and not necessarily concentrated in the merged DRDA at the district Panchayat level. The devolution of functionaries with functions implies the closing down of line departments and the transfer of staff to the administrative and disciplinary control of the Panchayats. In the absence of such effective devolution of functionaries with functions, there is a kind of dyarchy operating at the ground level which is detrimental to good governance and extinguishes all possibility of effective self-government as provided for in the Constitution. There will be a progressively growing need to establish a Panchayat service, for both administrative and technical functions, on the lines of existing state and central services governed by Part XIV of the Constitution.

The central and state governments need to take appropriate steps in this direction with all deliberate speed. The provisions of Part IX are in part mandatory and in part recommendatory. It is the fundamental duty of the centre to ensure strict observance of the mandatory provisions of Part IX, and to use its powers of persuasion to prevail upon state governments to conform to the letter and spirit of the recommendatory provisions. There has been persistent flouting of even the mandatory provisions of Part IX, leave alone the recommendatory provisions. The ultimate recourse of the centre of wilful flouting of the Constitution is dismissal of the state government under Article 356. This, however, is an extreme step. It would be preferable for the centre to secure directions from the Supreme Court. Such directions may be obtained through litigation, initiated either by the union government or through public interest litigation. As the union government might be somewhat reluctant to drag state governments to court, CAPART might be encouraged to appropriately support NGOs engaged in promoting through litigation compliance with the letter and spirit of Part IX. There is need for

harmonizing and clarifying the body of jurisprudence arising out of the relatively recent introduction of Part IX, since some court judgments appear prima facie to be not consistent with other judgments. It is urged that such a process of harmonization and clarification be undertaken by the authority or authorities concerned.

Many central and state Acts need amendment in view of the powers conferred constitutionally on the elected local bodies. The central government and the state governments must establish appropriate review bodies to carefully examine the compatibility of pre-Part IX legislation with the new constitutional provisions. This exercise needs to be undertaken urgently within a time-bound framework. Possibly, the Law Commission might be entrusted with the initial responsibility of identifying the categories of central and state legislation which need to be so examined and acted upon. There has been a mushrooming of parallel bodies which is seriously undermining the functions entrusted to the Panchayats by virtue of Article 243G and the Eleventh Schedule. Such parallel bodies must be wound up and their duties entrusted to the Panchayats at the appropriate level. Parts IX and IXA were designed as mutually reinforcing parts of the Constitution designed to integrate economic and social development in the urban areas with their rural hinterland, not to artificially divide rural from urban India. Yet, that is what is happening in consequence of Parts IX and IXA being administered by different ministries both at the centre and the states. A single ministry of Panchayats and *nagarpalikas*, at both the centre and the states, will promote the synergies required for rural and urban development to mutually reinforce each other rather than be pursued separately in a compartmentalized manner.

Arrangements for the training of elected members of the Panchayats at different levels, and of the administrative and technical staff attached to the Panchayats, fall at present far short of requirements. An exponential increase in the quantum of funds made available for such training is required as well as deep consideration to the overall training requirements of both elected members and Panchayat staff. Moreover, there is special need to concentrate on training for the weaker sections and women. The question of definitions in Part IX needs looking into. To avoid problems arising out of the territorial constituency of an elected person at one level being coterminous with the territorial constituency of another person elected to another level, the intermediate level should be defined at an appropriately high level to clearly distinguish it from the village and district level. To facilitate the effective democratic functioning of the Gram Sabha, which is the fulcrum of the system, the size of a village Panchayat needs be fixed at a level that would facilitate democratic participation by all adult voters, and that where for any reason the size of the Gram Sabha appears too large for effective democratic participation, subsidiary Sabhas be established at, say, the ward level. In regard to the Gram Sabha, the Panchayats (Extension to Scheduled Areas) Act, 1996, passed by parliament in pursuance of section 4(b) of

NOTES

NOTES

Article 243M, sets out the functions of the Gram Sabha in an exemplary manner.

State legislatures should take these provisions as a model to effectively empower Gram Sabhas in non-scheduled areas as well and so define the role that the Gram Sabhas are expected to play. In view of the crucial importance of adequate women's participation in meetings of the Gram Sabha, a sub-quorum of female attendance should be built into the required quorum. Moreover, provision may be made that meetings of the Gram Sabha be preceded by meetings of the Mahila Sabha, comprising all adult women voters of the village Panchayat, to ensure that gender concerns and preferences get fully reflected in the proceedings of the Gram Sabha. Regarding the composition of Panchayats, in some states there appear to be wide variations in the ratio of population to territorial area of Panchayats at different levels. Existing ratios need to be reviewed to ensure that the constitutional injunction for the ratio "as far as practicable, to be the same throughout the Panchayat area" (proviso to Article 243C (1)) is observed. While there may be scope to reconsider the manner of election to different tiers of the Panchayati Raj system at some future date, the important thing now is to ensure that the Panchayats are enabled to function as institutions of self-government within the meaning of Article 243G. Failure to ensure effective and meaningful devolution is the root cause of widespread dissatisfaction with the manner of implementation of Part IX. It is only after devolution in letter and after the spirit has been achieved that there might arise a case for reviewing the provisions of this Article.

Reservations for scheduled castes and scheduled tribes are generally working well. But, in the light of the experience gained, each state may wish to consider afresh the period for which reservations are made - that is, for one term or more than one term (Part IX leaves this to the discretion of state legislatures). Reservations for the backward classes have been left to the discretion of the state legislatures. In some instances, this has led to intensive litigation and delays in holding elections to the Panchayats. The centre should bring the experience of different states in this regard to the attention of state governments with a view to the states evolving reservation systems for the backward classes which enjoy a wide measure of consensus in society in general and without coming in the way of the effective and timely implementation of Part IX. Reservation for women has opened the door to revolutionary changes of a political, social and cultural nature. India can truly be proud of being the first and only country in the world to have empowered through free and fair elections more than one million women who are participating in the Panchayats. There is, however, still some way to go in changing the apparent empowerment of women into a real and genuine empowerment.

Regarding the duration of Panchayats, it is categorical and clear that the maximum tenure of the Panchayats is five years and that, in

terms of Article 243E (3) (a), elections have to be held before the expiry of the five-year period, so that the new Panchayats are constituted immediately thereafter without any extension beyond five years of the previously elected Panchayats. Yet, many states have flouted the five-year rule and introduced an interregnum between the expiry of one tenure and commencement of the next. Recourse has been had to sub-section (b) of clause (3) of Article 243E to justify this, as that sub-section states that a Panchayat, if dissolved, shall be reconstituted by elections within six months. This subsection was expressly designed for the dissolution of any single Panchayat on grounds of malfeasance, not for a situation in which all Panchayats stand dissolved owing to the expiry of their tenure. In fact, unlike the constitutional provisions for elections to parliament or the state legislatures, which envisage and provide for situations in which elections can be postponed, Article 243E nowhere provides for postponing elections in any circumstances, although the Supreme Court, in a 1997 judgment, has ruled that in “genuine supervening circumstances”, such as natural calamities, elections to Panchayats may be postponed. The intention of Article 243E is clear, elections to Panchayats must be held within five years of their being constituted so that there is no hiatus between the expiry of one tenure and the commencement of the next. Since regular periodic elections, within the letter and spirit of the constitutional provision, lies at the very heart of the democratic process, the central government must secure a clear ruling from the Supreme Court about the meaning and scope of Article 243E so that elections are held within five years and jurisprudence clearly indicates the highly exceptional situations, if any, in which there might be a short postponement.

The three tiers of the Panchayati Raj system are integrated and mutually reinforcing; indeed, Article 243ZD clearly shows that even the municipal bodies constituted under Part IXA are expected to work in tandem with the institutions of self-government of Part IX. As such, it is imperative that simultaneous elections be held to all three tiers of the Panchayat system and the municipalities. Yet, the growing practice in most states has been to disaggregate these elections. Elections to the Panchayats at all tiers and to the municipalities must take place simultaneously to ensure the maximum synergy in their functioning. Owing to allegations of serious and wide-spread malpractices and excessive expenditure by candidates, resulting in the growth of money-power and muscle-power which vitiates people’s power, the Election Commission should be requested to convene the state election authorities for a detailed exchange of experience and the drawing up of a code for the conduct for elections to the rural and urban institutions of self- government that would contribute to free, fair, transparent and economical elections. Notwithstanding the disqualifications prescribed by law, a large number of undesirable people manage to get themselves elected to the local bodies by threatening and cajoling voters and then proceed to dominate and terrorize the local community. Each state

NOTES

NOTES

should, therefore, has the present disqualifications reviewed by the state election authority or any other suitable body with a view to the state legislature passing additional legislation designed to insulate the elected local bodies from such malign influences.

Article 243G relating to the powers, authority and responsibilities of Panchayat, is the heart of Part IX, the kernel of Panchayati Raj. Tragically, very few states have even attempted to approximate the goals of Article 243G. Not till this Article is fully implemented in letter and spirit can it be said that we have progressed towards fulfilling the dreams of Mahatma Gandhi and the framers of Part IX. The union government is doing little to monitor progress towards the achievement of these goals, with a view to bringing to the attention of all concerned the best practice in different states in this regard, and convening state ministers for rural development on an annual basis or even oftener to lay down milestones and measure the progress made towards the time-bound achievement of these goals. This is an urgent requirement and should constitute the central task of the union ministry. Article 243G provides that Panchayats should be enabled by law to function as institutions of self-government. Yet in most states, devolution and decentralization is by executive orders under the law rather than by law per se. It must be ensured that all states undertake devolution by law, as called for in the Constitution, so that no retrogression in devolution is possible without the explicit concurrence of the state legislature. It is essential that state governments establish expert bodies to clearly designate which functions will be exercised at which tier of the three-tier system so that there is no confusion and no overlapping between different tiers and development work is synergized at all three levels. Such demarcation of responsibilities at different levels of the system will also facilitate the devolution of functionaries and finances to the appropriate level of the Panchayati Raj system. Effective devolution requires the devolution of functions with functionaries and finances. The sine quo non of effective Panchayati Raj is the demarcation of responsibilities between the three tiers for each devolved function go hand-in-hand with the devolution of functionaries and finances to that level. The two key functions of the Panchayats at each level are defined in Article 243G as: (a) the preparation of plans for economic development and social justice; (b) the implementation of schemes for economic development and social justice.

Unless planning and implementation is undertaken by the Panchayats they will not be serving their purpose. Of course, the Article provides that such planning and implementation will be “subject to such conditions” as may by law be stipulated. But the central function of the Panchayats is planning and implementation. Yet, in most states, there is no planning by Panchayats and implementation has been reduced to a nexus between the contractor, the chairperson of the Panchayat and the bureaucrats and technocrats of the line departments. In consequence, instead of evolving as “institutions of self-government”,

the Panchayats have been reduced to functional impotence and the corruption which arises out of chairpersons exercising their authority without the involvement and sanction of the members of the Panchayat at all levels and of the Gram Sabha at the village level. Corruption in the Panchayats at all levels has become rampant in most states because chairpersons are not responsible to the committees of the Panchayats or to the general body of the Panchayats. In association with the bureaucracy chairpersons have tended to usurp the functions which properly belong to the Panchayat as a whole. It is, therefore, of crucial importance to establish standing and ad hoc committees of the Panchayats at each level so that proposals are processed by such committees and then brought before the general body of the Panchayat for approval before, during and after the execution of works.

Planning is required to be undertaken at every tier of the Panchayati Raj system, not at the level of the District Planning Committee alone. Indeed, the very wording of Article 243ZD dealing with the District Planning Committees says the DPC is to “consolidate the plans prepared by the Panchayats”. It is not till the Planning Commission fulfils its constitutional obligation of making district planning through elected DPCs the basis of all planning that the objectives of clause (a) of Article 243G can be fulfilled. Implementation is a key responsibility of the Panchayats. But this has to be by Panchayats functioning as ‘institutions of self-government’, not as handmaidens of the line departments. In respect of all devolved subjects, implementation should be the responsibility of the Panchayats at the appropriate level, with the bureaucracy and technocracy assisting the elected authority in implementation and answerable to the Panchayat concerned, not the line department of the state government. The Gram Sabha must be deeply involved in implementation at all levels because it is the best form of social audit, both pre-implementation and post-implementation. This is also the most effective way of cutting down corruption and nepotism and ensuring transparency and accountability, as well as functioning democracy.

Few legislatures have made adequate provision in their laws for the fiscal duties and rights of the Panchayats at different levels. There also appears to have been no endeavours made to demarcate fiscal duties and rights as between each of the three tiers of the Panchayati Raj system. State Finance Commissions also do not appear to have applied their mind to this issue. The union government should identify a suitable expert body, to prepare model recommendations in this regard for the consideration of state Finance Commissions and state legislatures/governments. Although Article 243H (a) provides for Panchayats to ‘appropriate’ into their own funds the proceeds of taxes, etc., collected by them, few states appear to have encouraged this useful mechanism for Panchayats to raise their own resources. Therefore, state legislatures should consider which of the taxes, etc., assigned to the Panchayats might be left to be appropriated by the Panchayats and request state governments to prepare appropriate

NOTES

NOTES

legislation in this regard. Such appropriation should be encouraged to the maximum extent possible. The union government should credit all funds for central and centrally-sponsored schemes directly to the fund of the Panchayat concerned in accordance with the demarcation of responsibilities as between the three tiers of the Panchayati Raj system. State governments may be directed to similarly credit direct to the funds of the Panchayats, in accordance with the demarcation of functional responsibilities and the share of the contribution they are required to make to central rural development schemes.

4.3 PROBLEM AND PROSPECTS OF URBAN LOCAL SELF-GOVERNMENT IN INDIA

The areas falling in rural and urban geographies have enhanced functions after the amendments of the new Panchayati Raj. According to the newly incorporated changes, it will be mandatory for the rural and urban areas to make their own plans in addition to generating some resources locally. This will bring many problems into the limelight. These are the problems that cause hindrances in the efficiency of local governance. The demarcation of settlement between rural and urban areas has begun as a result of industrial development process and the corresponding development of additional facilities like transport, communication, power supply, etc., in the specific sectors of the space. The density of people, prevalence of activities that are not related to agriculture and enhanced provision of social amenities, inclusive of health and education infrastructure are the significant features of urban areas. The character of governance is also not the same, as the service is provided in rural areas by rural local bodies such as Panchayats in India and the urban areas by urban local bodies, specifically, municipal corporation, municipality and notified area committee, etc. Nevertheless, in the recent past, two key changes have been taking place: one is the horizontal development of social facilities like transport, communication, power supply, health and education, etc. The infrastructure penetrates into rural areas and this gives rise to an obscurity in differentiating between rural and urban areas on the one hand and secondly, the new role given to the rural and urban local bodies in the procedure of expansion as a result of the implementation of the new economic concepts of globalization.

Because of the continuous changes in the definition of rural and urban areas, it is hence becomes relevant to consider the recent definition in the fluctuating scenario as these two areas are governed by separate local institutions that have different potentials, abilities and implications for the growth of the local areas. The present manner in which rural-urban areas have been classified across the countries of the world has two key criteria, specifically, depth of the population and the percentage of non-agricultural personnel. These two factors prove

that the formidable force behind urbanization is related to industrial activities. On the other hand the rural areas are treated as residue and are synonymous with agricultural operations. Therefore, the agricultural-industrial dichotomy is the keystone of rural-urban categorization across all countries of the world. Nevertheless, in a few of the countries like Nepal, only the density of the population (more than 9,000 populations) is taken into consideration to categorize the area as urban. Nepal is a Himalayan kingdom which has a very low level of industrialization and proportionally, a low rate of development. In other countries like Bangladesh, Sri Lanka and Pakistan the administrative criteria is taken for categorizing a settlement as urban. Every settlement that has a municipal corporation, a municipality, a town committee and urban councils, etc., is affirmed as urban. However, while granting the civic status to settlements, it is important to bear in mind the criteria of size and non-agricultural occupation of population. On the contrary to it, it is very volatile to define areas like urban China, since it is the combination of both, town and country together that makes up an urban area, which is determined by the extension of town government seats. Hence, the definition is political in nature. Supplementary to this, the non-agricultural populations that reside in areas that are governed by town government seats have the advantage of certain benefits which are provided by state. Likewise, rural-urban classification is linked to differential privilege in China.

At the time of the census of British India, the definition of a town was an area that incorporated every municipality of a specific size, every cantonment, all civil lines not part of municipal limits and every other collection of houses, permanently inhabited by at least 5,000 persons or more, which had an urban character though not under municipal government. This definition went on till the 1961 census passed it on to the state census superintendents for applying their judgment in declaring the settlements as urban. The urban definition that was accepted in the census of 1961 had the following criteria:

(a) Every place that has municipal corporation, municipality, notified area committee and cantonment board, etc.; (b) The areas which fall under the following criteria: (i) Having a populace that is equal to or more than 5,000, (ii) Having a density of population which is 1,000 persons per square mile (400 per sq km), (iii) Having seventy-five per cent of workers who are working in the non-agricultural sector. In addition to the above requirements, the director of census operations, in consultation with state governments and the census commissioner of India, has the authority to publicly affirm a settlement as urban. The new definition did not only make an effort to apply strict criteria, but also directed its attempts at clearly dichotomizing areas into rural and urban types, on the basis of agricultural-industrial continuum.

The new urban definition that was taken on in 1961 kept with it most of the features of the previous definition, with the exception of the addition of three-fourth workers occupied in non-agricultural sector and

NOTES

NOTES

having a population of 1,000 persons per sq mile. In addition to this, two significant alterations have been made since 1981 census for determining the non-agricultural labor force. Initially, the consideration only focuses on male workforce. This does not include the women workers. Secondly, the industrial type of workers, typically those linked to farm animals, forestry, fisheries, hunting, agriculture estate, orchards and linked activities were not included in non-agricultural workforce. This was different to the previous censuses. To a certain extent this brought into force, the gender-based prejudice as part of the definition of urban and stringent definition of non-agricultural labor force. The definition thus became more stringent on the lines of reflecting the agricultural-industrial dichotomy in defining India's urbanization. According to Indian terminology, urbanization is defined as a dualistic term, simply because it comprises of both, administrative and demographic criteria. Consequently, two basic categories of towns are classified by the census. The first type is termed as municipal or statutory towns and the second category is termed as census or non-municipal towns, on the basis of the difference in criteria of their identification. Every one part of the three parts of a town was identified as census towns in 1991. This was done at the national level, in India. On the basis of the available information from 1991 a few patterns of interest were highlighted by the census. A few of the states that had a very high density of non-agricultural activities such as Gujarat, Kerala, Tamil Nadu and West Bengal have almost two-thirds of towns as census or non-municipal towns. It is depicted by this pattern that although non-agricultural activities are predominant in these cities, the municipal status has still not been assigned to them.

Since the municipal status is not assigned to these towns, it is supposed that they are governed by the Panchayat and are probably getting funds that come from programmes of rural development. Side by side, the concerned state governments are likely to hesitate in granting these towns the municipal status as to the results of this would cause draining of state resources, which are already scarce, to large number of cities in the form of grants. In addition to this, in terms of politics, it is simple to control Panchayats in comparison to municipal bodies, simply because of their inherent structure. Hence, the ruling elites, to a large extent, with rural base, do not have a favourable inclination towards municipal governance. In contrast to this scenario, compared to highly developed states, backward states like Uttar Pradesh (6 per cent), Rajasthan (10.4 per cent) and Madhya Pradesh (16.8 per cent) have few towns in non-municipal class. These states are referred to as '*Bimaru*' (sick) states of India. However, demographic literature is seemingly generous in according the settlements civic status due to political reasons. These states are renowned to create a higher number of districts and *tehsils* as part of their election strategy for pampering the different regional groups.

This is the reason that the political economy and the manner in which rural and urban areas are classified, is closely related. This fact also makes it evident that urbanization is not at all strong in India. Unexpected investment made by the state governments cause the growth of urban centres in certain projects that are related to industries and development or through the administrative process of transplanting district and *tehsil* head quarters. This also found to be historically true in India. The most important towns and cities of India were constructed by various rulers to support their political and strategic gains. Three significant mega cities of India, to be exact, Kolkata (Calcutta), Mumbai (Bombay) and Chennai (Madras) were also resettled as port centres during colonial rule. Due to the irregularities, urbanization is regarded as a problem in India and not considered as a means of growth and enhancement. Along with the growth of a town, its adjoining areas are engulfed by it, thus resulting in suburbanization. But according to dichotomy, the definition of rural and urban is not successful in capturing it as there is no in-between category that can be used to define urban India. This dilemma was highlighted by the Census Superintendent of Punjab, as early as the 1961 census. It was reported that the recent bilateral categorization of the population into rural and urban classes is not acceptable. This causes in underestimation of the growth of urban population and gives an urban look to rural population, which is not justified.

This led to the suggestion of a threefold classification, viz., urban, suburban and rural. In the last few decades, the process of suburbanization has proven to be thoroughly strong in bringing reforms to the adjoining rural areas. This process has been even more formidable near the mega cities, capitals of states and in areas which have been affected by the green revolution. The census definition has not been successful in meeting the challenges posed by the classification of settlements in the present situation. Every urban area that has been defined by census has not necessarily been granted the municipal status. In contrast to this, every settlement that has been granted municipal status is automatically declared as urban. Often, also settlements that are very much similar to village conditions are granted urban civic status. However, this status is barely better than the villages in civic amenities and environmental conditions. It is really surprising as to why the municipal apparatus was imposed on them. Contrary to this, in a few of the developed states, settlements, even though they hold true on economic and demographic grounds, are not granted urban civic status and are governed by rural local bodies. This causes a loss in the revenue to the local bodies as a result of their rural status. As it is understandable that urban local bodies have more capacity to generate revenue by means of property tax, vehicle tax, entertainment tax and service charges, hence, there is a need to restructure the rural and urban boundary, considering the factual revenue potential of the settlements, in order to reorganize them into rural and urban local

NOTES

NOTES

bodies. The rationalization of rural-urban boundary is further required considering the fact that urbanization is an ongoing spatio-temporal activity, while a change in the municipal boundary is a discrete process.

The municipal borders are not redefined by the state governments at the earliest nor is there a fixed time limit for it. It is also a time-consuming process when state governments have to inform about such changes through the office of deputy commissioner/district magistrate for inviting any opposition to such changes, which will be appropriately measured by the state government before it declares a change in the municipal boundary. As a consequence of this, quite a few adjacent villages to the cities and towns are not being brought within the municipal boundaries. In addition to this, in several areas around a core or statutory town, fairly large and well-recognized railway colonies, university campuses, port areas, military camps, etc., may have come up. These areas fall beyond the statutory boundaries of the corporation and municipalities, cantonment boards, etc. In a large number of cases, they fall within the limits of the revenue of the village or villages which is or are contiguous to the town. Since such areas are already urbanized, it is not considered practical to treat such areas that lie outside the statutory limits of a town, as rural units, though some of them may not hold true on the prescribed eligibility criteria of qualifying themselves as independent urban units. Such areas have been given the term of outgrowths by the census. Although these outgrowing areas are geographically parts of the cities and towns, the municipal administration goes not govern them. This spatial dichotomy of administration should be removed as it could increase the revenue generating capacity of the municipal bodies.

The 74th amendment to the constitution predicts three forms of urban local bodies. These are: (i) Nagar Panchayat or notified area committee (it can also be addressed by a different name) for an intermediary area, that is to say an area in transition from a rural to an urban area; (ii) A municipal council for smaller urban area; and (iii) A municipal corporation for larger urban area. The transitional area, smaller urban area or larger urban area refers to such an area, as the governor may consider the population of the area, the density of population in it, the revenue generated for local administration, the percentage of people engaged in non-agricultural activities and the economic significance of other factors as he feels fit and are specified by public notification for this purpose. As such in this act, the density of the population of the area for different local bodies has not been defined and it is left to the government to decide about this. In addition to this, the census of India fails to provide any information related to the transitional area and the government needs to use its own judgment for it. Therefore, the census definition of rural and urban needs to undergo modifications, considering the requirements of decentralized governance, as enshrined in the 74th amendment to the Indian Constitution. The census could have the capacity to further assist in this process by provision of certain relevant

information, related to family units such as property taxes, fees and service charges, etc., that is paid to the local government in the household tables, published widely since the census of 1981.

The altered economic atmosphere makes the accessibility of such data vital to supervise the economic condition of the local governments. This is also of great importance, from the point of view of granting the municipal status to the settlements as predicted in the 74th amendment of the constitution. Therefore, the provision of census data on the areas in transition and the revenue thus generated would be of great significance in government's decisions of granting the civic status or reaching decisions pertaining to the state grants for the local governments. The practice is different in states. And the discretion of the government is supreme, whether or not to include an area in the urban local bodies. Panchayats can also be included in the municipality and there is nothing that can be done to restrict the authority of the government in constituting a municipal district to include the whole of the village or suburb. Hence, rationalization of rural-urban classification of settlements is in proportion to rural and urban local governments. It will not only help in increase the competence and management of local governments but it will also bring down spatial lopsidedness in the process of governance and growth. The new role of urban governance in the backdrop of globalization gives rise to the question of urban size, from the point of its viability. The urban size is closely influenced by the revenue potential and degree of development of the urban areas.

The large towns also have improved infrastructures in comparison to small and medium towns. It is very obvious that there are many small and medium towns that are not in position to meet the challenges of globalization, simply because of their poor economic statuses. Moreover, with the implementation of the 74th amendment to the constitution, associated legislative laws and ordinances, decentralization is highly stressed upon in the activities of governance and development. Till date, the economic practicality of urban civic bodies was not an issue to be concerned about simply because the local bodies were supported by the state governments in their budgeted expenses through an approach that filled gaps. This has come under strong criticism for making the local bodies lax in the mobilization of resources, collection of taxes and efficiency. In the period of globalization, the policy is being rendered as useless. The latest approach is directed at promoting infrastructural and industrial investment in cities and towns that have the capability to cover the costs themselves. Further, it is also expected that the local bodies would devise their own programmes and systems of growth with the help of their own resources. Processes like these are also actively happening in other parts of the developing world.

The new economic setting makes it important for urban local bodies to be practicable in terms of their population density. There are barely any norms, based on categories of population size for different types of

NOTES

NOTES

Check Your Progress

1. What was the main reason of the dysfunctions of the local self-government in India?
2. Why are most of the Panchayats and municipalities not able to work?
3. What is the common negative trend found in most of the local bodies?
4. Which report gave an impetus on the decentralization process, now known as Panchayati Raj?

urban local bodies like municipal corporations, municipality, Nagar Panchayat, etc. The bodies that presently exist also vary grossly in terms of size, for instance, the size of municipal corporations differs from about 10 million in the case of Greater Mumbai to less than 5 lakh in the case of Dharbhanga and Muzaffarpur. Similarly the size of other local bodies differs from state to state in India. Various municipal acts visualize the size of municipal council with a population that is not below 50,000 and extends upto 5 lakh. The municipal bodies that have a populace which is below 50,000 are not viable due to their economic weak foundation, as well as their limited capacity to raise funds from the market. Hence, in order to meet the challenges of globalization it is very important to reorganize our urban space into some viable spatial unit. This may be possible by using different alternative methods.

The town group approach adopted along with the 1961 census was likely to be considered as an outline for urban governance. Since the innovation, the census of 1961 displayed segregated statistics and brought together such towns alongside other, in such a way that in everyday life they act as if they are one unit, although more than one local administration is serving them. The general belief was that bringing together towns in this way should be of much more use to plan their growth by taking their requirement as a complete unit. The refinement of this notion took place in 1971, side-by-side with the perception of 'urban agglomeration' (UA) to get a superior feedback with reference to urban procedures and drift. This notion, without any alteration, continued to be operational in the more recent censuses, though it has not been used in urban governance. The census structure of 'standard urban areas' (SUA) that was brought out for the first time in the census of 1971, was also equipped with the capacity to encounter the up-and-coming challenges of recent times. Limits have been set on the customary urban boundaries with reference to towns that have a population of 50,000, taking into consideration the outstanding areas of towns or cities in the following 20 years. This takes into consideration not only adjacent cities but also rural areas, based on the following criteria (i) principal urban land use; (ii) Excessive interface with urban centres as depicted in commutation for purposes related to work and secondary education services; extension of transport services in towns; sale of daily supplies like milk, dairy products, vegetables (in addition to those that are transported by trains or roadways) and purchase of food grains, garments and general supplies, etc., by the consumers in a direct manner; (iii) Predictable urban development, due to decisions pertaining to locations, related to industry, market, transport and communication, administrative and service activities and (iv) The presence of large villages with large amount of labour force engaged in non-agricultural industrial activities.

The details on Standard Urban Area (SUA), as given in the census may prove to be very important in the reorganization of space in the view of new requirements of decentralized governance in the backdrop

of globalization. And the cluster of towns has the capacity to provide a practical structure in case of small-sized and medium-sized towns. These are the towns that municipal bodies govern for the purpose of meeting the challenges of globalization.

NOTES

4.4 SUMMARY

- Democratic decentralization was the main idea behind the formation of local self-government in all parts of the world.
- In India, when it was introduced it was merely a tool for urban and rural tax collection and management.
- However, Indian leadership remained committed to the idea of local self-government. This commitment was on paper till 1990s.
- The introduction of 73th and 74th Amendments in the constitution was though a radical step in the direction of the establishment of really an autonomous local self-government system. It still remains under the clutches of the state leadership.
- The local self-government, both, in its urban and rural forms have remained a political tool in the hands of the state leadership. The need of its true independence is there.
- The reservation in the local bodies have brought certain significant changes in the political and social atmosphere, but it remained to be seen whether this will materialized in the development of real democratic political culture.

4.5 KEY TERMS

- **73rd Amendment:** The Constitution's Act (1992) that accorded Panchayati Raj Institutions (PRIs) with a constitutional status
- **74th Amendment:** Statement of Objects and Reasons appended to the Constitution (Seventy-third Amendment) Bill, 1991
- **Cynicism:** A general feeling of distrust
- **Swaraj:** A form of self-governance or self-rule
- **Vernacular:** The language or dialect spoken by the ordinary people in a particular country or region
- **Elite:** A group of people considered to be the best in a particular society or category, esp. because of their power, talent, or wealth
- **Indian Administrative Service:** The administrative civil service of the Indian government
- **Zila Parishads:** A local government body at the district level in India that looks after the administration of the rural area of the district and its office is located at the district headquarters

NOTES

- **Civil servant:** A member of the civil service
- **Devolution:** The transfer or delegation of power to a lower level, esp. by central government to local or regional administration

4.6 ANSWERS TO CHECK YOUR PROGRESS

1. Reluctance among the higher bureaucracy and political elite in devolving their powers had been the main reason of the dysfunctions of the local self-government in India.
2. Due to unavailability of funds most of the Panchayats and municipalities could not work.
3. It has been found that most of the local bodies have become a centre of corruption and petty politics.
4. Balwantrai Mehta Committee Report on democratic decentralization in 1957, gave an impetus to the decentralization process, now known as Panchayati Raj.
5. In India, the predominance of one party among a few smaller parties has persisted since independence.
6. Vinoba Bhave could be regarded as the last of those leaders who could inspire a tradition of sacrifice.
7. Article 243G relating to the powers, authority and responsibilities of Panchayat is the heart of Part IX, the kernel of Panchayati Raj.

4.7 QUESTIONS AND EXERCISES

Short-Answer Questions

1. What was the main reason of the failure of the Panchayati Raj in India?
2. What is State Finance Commission?
3. Which sections of the Indian population get reservation in the election of local self-government bodies?
4. How do we define the urban areas?
5. Which is the body which coordinates between the urban and rural self-government bodies?

Long-Answer Questions

1. Write a note on the problems and prospects of rural self-government in India.
2. Write a note on the problems and prospects of urban local self-government in India?

4.8 FURTHER READING

References

Ayer Mani Shankar (2002), 'Panchayati Raj: The Way Forward Source',
Economic and Political Weekly, 37 (31): 3293-3297.

Mukarji Nirmal (1994), 'Self-Government and Its Instrumentalities',
Economic and Political Weekly, 29 (14): 789-791.

Kannan K.P. (1993), 'Local Self-Government and Decentralized
Development', *Economic and Political Weekly*, 28 (49): 2644-
2646.

Bhagat R.B. (2002), 'Challenges of Rural-Urban Classification for
Decentralized Governance', *Economic and Political Weekly*, 37
(25): 22-28.

Website:

<http://lawmin.nic.in/ncrwc/ncrwcreport.htm>

NOTES

UNIT 5 STATE-LOCAL RELATIONSHIP: AUTONOMY OF LOCAL BODIES

NOTES

Structure

- 5.0 Introduction
- 5.1 Unit Objectives
- 5.2 Autonomy of the Local Bodies
- 5.3 Reforms in the Urban and Rural Bodies: 73rd and 74th Constitutional Amendment Acts
- 5.4 Summary
- 5.5 Key Terms
- 5.6 Answers to 'Check Your Progress'
- 5.7 Questions and Exercises
- 5.8 Further Reading

5.0 INTRODUCTION

The creation of the local self-government was based on the principle of democratic decentralization. It was assumed that once local people are involved in the decision making in the process of their development the roots of democracies will be strengthened. Larger people's participation in the government's functioning is the main criterion of the success of the local self-government. However, since its advent in India local self-government bodies have to struggle for their autonomy from the state governments. The refusal and reluctance of the state governments to give greater autonomy to these bodies has many political and socio-economic reasons. The greatest hurdle in the autonomy of the local bodies has been their financial dependence over the state or central governments.

In 1992 there were very important steps taken by the Indian policy makers. Government of India passed 73rd and 74th constitutional amendments providing these local bodies constitutional status for the first time in their history. This made Indian government a three tier structure. This also gave immense powers and responsibilities to the local bodies and provided for their financial independence in the Article 243 I of the constitution. However, these provisions have yet to bear fruit. Most of the local self institutions and government bodies are still dependent on the state government for their finances making them to compromise their autonomy.

NOTES

5.1 UNIT OBJECTIVES

After going through this unit, you will be able to:

- Identify the areas of conflict between the state and local bodies
- Identify the need of the greater autonomy of local bodies
- Discuss briefly into the 73rd and 74th Constitutional Amendments Acts in order to identify the extent of the reforms in the area of autonomy of the local self-government

5.2 AUTONOMY OF THE LOCAL BODIES

The concept of local autonomy versus state powers is outdated. If government is to function as a service for the benefit of the people, state and local administrations must work as two active and co-operative members of a partnership. For this purpose, state controls over local government bodies should be subtle and carefully balanced to forestall malpractices while avoiding any tendencies which stifle local initiative. These controls should be reduced in number and rationalized by working out model bye-laws, regulations and budgetary patterns. State governments ought to intervene only when prescribed standards are not adhered to, allowing local bodies to frame their own particular procedures and regulations. Inspectorates of local bodies should be established by ministries of local government to maintain specialized and sympathetic liaison between the two partners. These are among the suggestions spelt out in detail in the article below. Development and progress of local institutions in India is of its own peculiar kind. Local government, as it existed at the time when the British withdrew from the country, was a product of slow and gradual evolution. This growth had not been that of a federation of smaller units into a large unit to deal with common interests but the much more difficult and tortuous process of slow devolution of powers from a highly centralized authority to local units. The underlying motives of British rulers also underwent changes from time to time.

It is not only essential that steps should be taken to see that authorities efficiently perform the jobs they have been given to do, but it is also essential that local authorities should not exceed their duties by engaging in ventures for which they have no legal authority. The interests of the local bodies and state governments are so closely inter-related that a high degree of coordination and cooperation is necessary between them. Due to increased mobility and speedy communications and changes in the concept of governmental functions, many activities which were formerly regarded as purely local, have now to be viewed in the national context. The state and local government relationship is, therefore, no longer to be considered from the antithetic angle of local autonomy versus state powers but rather from one of partnership and

cooperation aiming to secure the best possible and most efficient service for the people. The kind of relationship between central and local government that has to be aimed at, is neither control of local government by central government nor such concurrent powers as would be appropriate for the units of a federation. Rather the optional relationship would be a partnership of two active and co-operative members, but with the central government, definitely the senior partner.

The state and union governments must play an innovative and supporting role to strengthen the municipal administration so that it may perform its tasks efficiently and effectively. To achieve this objective, there must be a working relationship which implies on the part of the state government an increased emphasis on guidance, research, advisory and consultative services, technical assistance and training programmes and on the local government's side a genuine concern for improving their processes and procedures to the end that decisions can be made and implemented speedily and efficiently. Since local government has a direct and profound effect on the working of the democratic system, the state government has to provide the right quantum as well as the right type of assistance to the local authorities to invigorate and strengthen them. In local government it is clear that some system of control by the central authority is required for popular direction, unification and coordination of the services of local authorities. Otherwise the standards and extents of these services would be dissimilar in many districts and this would be manifestly unfair to the population as a whole. For instance, the education of children throughout the country should conform to accepted standards, and that schools and teaching in one area should not be substantially inferior to those of another area. Similar considerations apply to other services. The union and state governments should not have a negative approach of restricting the initiative, discretion or assumption of responsibility on the part of the local bodies, but they should adopt a positive approach of helping the local authorities to become increasingly self-reliant.

However, in the year 1993, a unanimous agreement took place in the parliament, which was in favour of introducing of local self-government all over the country. This was done in line with the 73rd and 74th Constitutional Amendments that gave these local self-government bodies a status in the constitution and an independent identity. Consequent to these alterations, India's two-tier federal structure of a union government and 28 states underwent a transformation into a three-tier system. The question here arises that whether this decision should be considered as a significant move in the direction of local government and also a significant move towards democracy, or just another important step in the direction of local government, in combination with, but not a very significant step in the direction of democracy? The jury is still open since it is considered too premature to come upon a decision. After validating the degree of success achieved by these amendments, the institutions established by them

NOTES

NOTES

and the societal processes that have been triggered by them require an extensive perspective, based on the lines of history. Nevertheless, the reason that the jury has not yet taken a decision is that they have no clarity about how much is sufficient evidence to come upon a clear judgment. The biggest hindrance is the absolute degree of innovation. There exists a likewise model for urban India. This model comprises of municipal corporations and municipal councils (Nagar Palikas).

Collectively, these institutions have been an addition to the 500 or more members of the parliament and almost 5,000 representatives of the state. In addition to this, there are around three million newly elected representatives. Out of these, the amendments specifically state that one third, or approximately one million, shall be women. In addition, it is stipulated that almost 700,000 of these elected representatives should be members of what were earlier untouchable and tribal communities. The constitution describes these two mentioned groups as scheduled castes and scheduled tribes. In common manner of speaking, they are referred to as SCs/STs. By adding such a large category of people to the political map of India, the density of representation of the Indian polity has been significantly increased by the constitution. At present it is a collection of a large number of institutions and representatives. These are extensively distributed across a wide geographical, political and social landscape. The definition of this latest polity is stated in terms of the variations of public way of life, political dynamics and material assets. The area of this landscape will essentially produce, in the form of pure probability, illustrations of both, accomplishment and failure in the operation of local government institutions. What can be regarded as sufficient evidence for us to direct efforts towards several assessment of the reforms? Within acceptable range of things, whatsoever information is available, related to the actual operation of local government can, in the best way, be considered as periodic. In ideal conditions, a theoretical framework is needed, within which the chunks of evidence, as they come into view, are easy to read as important or not worth mentioning. Where there is no knowledge or insufficient information related to empirical evidence, due to the scale of things, one should rely on these type of hypothetical indications for deciding whether an event is to be considered as only one of its kind or to represent a better socio-political fact. Therefore to validate the operations of these two sets of institutions of local government it requires us to be cautious and methodological. Nevertheless, it can be still said that these changes are a representation of, in institutional terms, a significant exit.

The package of institutions that amendments produce comprise of many significant innovations that, if they function in accordance with their design, will render democracy in India to include more and represent more than what it is currently doing. What is the practical degree of functioning of these institutions, on the basis of their design? If they are not functioning to their full capacity, it is important to know the reason

for it. As an instance of the complexity in interpretation of evidence, we might consider incidents of hostility directed at the poverty-stricken and exploited untouchables and tribal peoples (also referred to as *Dalits* and *Adivasis*) in the rural areas. These incidents seem to be on the rise ever since the passing of the two amendments. An explanation of these incidents could be provided in terms of the rise in resolve of the dominant castes in order to protect their cultural privileges against being taken over by *Dalits* that is, by approving a policy to push them back to where they belong, in terms of the societal hierarchy. There are rare instances where this type of violence and aggression by the dominating castes, directed towards *Dalits*, is penalized by the state authorities. With the help of this type of interpretation, it can be concluded that the *Dalits* of present times are usually in a condition which is worse than their past state, when violence on the basis of caste and status was widespread but had not still assumed a political outlook, as seen currently. This higher degree of violence could also be visualized in terms of a struggle by *Dalits* to get away from generations old domination and disgrace. This resistance was made feasible by the opportunity space shaped by the political reforms. As per to this analysis, the *Dalits* of recent times can be considered to be economically better than what they were, prior to the amendments. The reason for this is that they are setting the base of a new, democratic order. To put it across in simple terms, in what way can the large number of reports of violence against *Dalits* be interpreted, in terms of the short period in which people are killed, homesteads set to fire and women raped or in terms of the long span of time in which the goal of equal citizenship becomes more attainable?

The question here arises whether this body of evidence can be considered as a benchmark of the success of decentralization or of its failure? There are two reasons for raising this issue here. The first reason is that most of the reports and a large number of studies on the decentralization of democracy in India, after the 73rd amendment, are either intensely evangelical or excessively doubtful. The second reason is that debates on democracy in India will always be between two groups of people, firstly, those who are amazed at its accomplishments and secondly, those who ridicule its assertions, since these judgments are usually based only on the small and not the big picture. Both sides have the tendency to be in a hurry and are biased. Nevertheless, the big picture of democracy in India, comprises of elements of: achievements and disadvantages, giving the citizens power and taking away power from them, a reduction in undemocratic spaces and an addition in the randomness of those in authority. To say this is not to beat around the bush, but it is, on the other hand, to recognize the paradoxes that play a role in the transformation, through the politics of democracy, a socially and economically non-egalitarian society into one that is egalitarian in terms of politics. While recognizing the absence of a clear image, here there is an effort to make a judgment on the decentralization experiment that is underway in India. There are three sections. The first focuses on

NOTES

NOTES

the issues that are of importance to understand the two amendments. The second one analyses the functioning of the institutional advancements, particularly the village assembly (Gram Sabha) that has been introduced by the amendments. The third makes an effort to position these new local government institutions within the larger scheme of India's federation.

The policy of decentralization became a matter of concern in the colonial times, with Lord Ripon's Resolution in the year 1882 and for a short period, an issue of discussion in the constituent assembly. The debates of the late 1940s were directed at the possibility of establishing an optional structure of government. After the period of independence, thoughts and ideas related to decentralization gained from the considerations of many committees, inclusive of the three chaired by Balwantraji Mehta, Asoka Mehta, and L.M. Singhvi. During the late 1980s, both, Rajiv Gandhi's and V.P. Singh's governments launched the constitutional amendment bills that were failures. These attempts bore fruit in the 1990s, taking the shape of constitutional amendments during the time when P.V. Narasimha Rao was the prime minister of India. When they were enacted, more than a creation of the century, they were more of a creation of history. An enormous intellectual reserve on decentralization was shaped which informed the framing of the Amendments. It is valuable to recognize this intellectual history because of the large number of solutions it offers, which have been debated since a long time. There is a storehouse of information related to local government, experiments that have not been successful and those that have succeeded.

The second issue is that the amendments were not propelled by the demands of social or political activities, or other pressures for delivering public goods, but by the concerns of the policy community and the political elite for making governance better, particularly in rural India. It was noticed that the state of development was not successful in delivering. This was noticed in terms of the coldness, negligence, absence of answerability, inactivity of the delivery process and in addition to this, the capability of the rural elite, since it is they who are controlling the local power structure, to target the openings offered by the different government schemes. The process of decentralizing planning, as well as power and functions and democracy, was hence considered to be a key to this continuous irregularity of power. The belief that the solution lay in the decentralization of planning was due to the slackened speed of gains that flowed from the infrastructure that already existed, as pointed out by the sluggish development of productivity and inadequate percolation of benefits to the economically deprived and the socially underprivileged segments. This was although there was an abundance of many poverty programmes to bring down the level of poverty.

It was experienced that centralized planning was not successful in solving the fundamental problems of the poor, the unemployed and those

related to discrimination. In addition to this, there was also a feeling that decentralization of democracy would give rise to many benefits. One was breaking away from the domination of the rural elites in terms of the use of resource and distribution by giving more authority, for instance, to up till now, deprived groups in the distribution of state welfare schemes. Another was a more extensive participation of secondary groups in the planning, implementation and monitoring of those activities of development that are capable of influencing rural areas. Additional benefits were the development of a more objective and maintainable utilization of local resources; an enhancement in the answerability of local administrators; a decrease in the charges of service delivery; a more competent higher-ranking bureaucracy, relieved of usual responsibilities that are more efficiently performed by subordinate officials; a more representative political system with improved legality and essentially, endorsement of self-esteem and motivation among underprivileged groups with the help of this movement of political empowerment. The amendments were considered to create institutional space and ability to meet these goals.

This involvement with the results of development of decentralization gives rise to a third issue that is worth mentioning. Keeping in mind the long history of reforms and its roots and the apprehensions behind them, the proposal of decentralization in India should be positioned first and foremost within the discourse of progress. Other discourses that are a part of the programme of decentralization, such as democracy, federalism, law, equity and justice, should be visualized as assisting discourses. It is important to acknowledge the stress of India's decentralization on progress for the simple reason that it distinguishes it from discourses on decentralization in other areas across the world. It is a reminder that just like the first two-tier federalism was imposed as part of India's centralized federation, so was the third tier. For instance, giving more power to women was part of the proposal not because they were not given equal opportunities by patriarchal structures, but because they were considered as means who would make use of rural resources in a more sustainable manner. In addition, they were also considered to be less crooked. It was expected that they would contribute in a better way to the overall progress of the village. The democratic surplus of decentralization was hence considered as secondary consequences and not as primary targets, of empowering women.

The key goal was development. These three features of the decentralization discourse in India, in an indirect way, gave the proposal its exclusive nature. Since development was the aim of package of institutions that were set up by the decentralization scheme, first and foremost the complete abolition of poverty in rural areas, it had to issue into its plan the matrix of social and economic power as it existed. This is the fourth issue. Rural power in India is represented across three axes. First is the caste system, which dominates relations between

NOTES

NOTES

persons and even more between groups, by means of its ideology of building segments, elimination and disgrace. Second is patriarchy, which gives a definition of the terms of gender relationships, particularly in the community sphere. Patriarchy gives women a submissive position. It denies them the gains of equality of citizenship. Third is land, which is the material base for social life and positions the circumstances for a social exchange that displays a feudal quality in most areas of the countryside. Right to the use of land and the struggle for it is basically very important for the livelihood of the larger section of the population. The character of the power matrix turns out to be clear when the patterns of owning land are placed over the caste profile of a region. As a rule, *Dalits* are not only the disgraced castes but also the ejected ones. A research by the SC/ST Commission in April 1990 linked atrocities both, to caste discrimination and untouchability on one hand and political and financial issues concerning property, income, indebtedness, bondage, etc., on the other.

Disputes linked to land are recognized as the sole most important reason, inclusive of conflicts linked to implementation of land reforms, allocation of agriculture territory and housing sites, grievance against a good crop raised by *Dalits*, use of village land, etc. Similarly, any attempt by *Dalit* agricultural labour staff to agitate for logical remuneration is usually retaliated with violence by the land-owning classes. In rural India, these three axes are closely associated. The lines of both, poverty and pollution are coincident. It was in this situation that the package of decentralization institutions, directed at tackling the issue of rural poverty with the help of improved governance was introduced. The amendments were directed at tackling this power matrix by restructuring and introducing reforms to the existing Panchayati Raj institutions. The politically influential and the policy makers created an institutional design that comprised of and attempted to encompass disadvantaged groups in governance. This was done through the incorporation of a few novel features in the 73rd and 74th constitutional amendments. One explanation of the underlying principle of the amendments was that the union government wanted to destabilize the power of the state governments (the second tier) and make the third tier more powerful.

Prime Minister Rajiv Gandhi's proposal was visualized as part of this conspiracy. Though a little bit of credibility can be given to the dividends that are brought by this political calculus, the fundamental concern was development. With this, we come to the fifth issue, the ground-breaking characteristics of the two amendments. Their assessment makes sense only when we take into account the following four points: the long lineage of the existing ideas on decentralization, the driver of the decentralization programme being the scholarly and policy community, the progress discourse being the spot of its chief site, along with the matrix of rural power that these novel institutions had to contend with. These pioneering characteristics are thus best understood in the backdrop of rural society. They are built on certain

NOTES

assumptions about that society that now, ten years into the operation of these institutions, need a revisit. A large number of the features of the 73rd Amendment are common to the 74th Amendment, which sets up a three-tier system for urban areas. There is an additional attribute of both that is significant to be noted. A district planning committee is to be established under Article 243ZD, to strengthen the plans made by both, Panchayats and municipalities and to make a draft development plan for the district as a whole. The means of access of the two amendments discloses a paradox; the most central of instruments, a constitutional amendment, has had to be used for the creation of a third tier of decentralized institutions of governance. This paradox in fact captures the tension that is at the base of the revolution of Indian society. The state goes forward with the cause of an egalitarian order with the help of the most powerful device that it has at its disposal, a constitutional amendment. In this manner it creates democratic institutions in the face of resistance from the entrenched holders of power in society.

The state, at least in one of its forms, therefore, should be seen as the locus of a movement of development by envisaging a society and polity on the basis of an equal citizenship. Decentralization should hence be acknowledged as the initiation of a dialectical fight back between the democratic thrust of the institutions of local government on one hand and the anti-democratic rebellion, or attempted subversion, of democracy by the arrangement of rural power on the other. The large number of recommendations for improving decentralization should therefore be considered as stages in this class and caste struggle. Such a form of reflexivity is mandatory for any exercise of democratic alteration. Institutions have to be evaluated from time to time considering the new evidence and the new perspectives and discourses. It may still seem too early yet, but as mentioned earlier, new evidence coming in, though not sufficient, still needs to be examined. How does this decentralization initiative relate to the discourse on federalism? Obviously the constitutional amendments changed India's two-tier federation into one that is supposed to be three-tier. Nevertheless, making changes in the law is a different thing than bringing it into actual practice. Till date, there has not been much of evidence to prove that the states recognize that local governments are not any longer owned by them, that they are whole subordinates of state policies. On the other hand, they are expected to be part of a synchronized system where each of the three orders of government bears a responsibility to the constitution. Perhaps, it might be possible for the union government to bypass state governments and come forward to support local authorities. This has been done in the US. However, in Canada, which is a parliamentary federation like India, the attempt by one prime minister, Pierre Elliott Trudeau, to do this did not succeed. It may be possible to tease out a few of the concerns from the 73rd and 74th Amendments, by distributing power that stirs federalism. But practically speaking, the

NOTES

Check Your Progress

1. What is the main criterion of the success of the local self-government?
2. How must state and local administrations work for the government to function as a service for the benefit of the people?
3. In which year did a unanimous agreement take place in the parliament that was in favour of introducing of local self-government all over the country?
5. Who could be regarded as the last of those leaders who could inspire a tradition of sacrifice?
6. Which article relating to powers, authority and responsibilities of the Panchayat is the heart of Part IX?

institutional configuration that has so far emerged is submissive to the second tier of government.

Local government in both, urban and rural India, though has a mandate in the constitution, it has a very feeble presence in its own right. Its control lies with the state governments, which have retained many powers. They also have the power to frame rules, to make amendments in the content of agenda, to employ officials, to give notice to the Sarpanch, to revoke resolutions or decisions of Panchayats, to disband Panchayats, to examine records/works and so on. This is the reason that state governments are superior to local governments. Hence they violate the basic federal principle that no order of government should be secondary to another. Further, local governments lack the power to pass legislations, nor do they have the authority to approach the courts to rule upon disputes over relevant constitutional powers of the second and third tiers of government. Actually, there is no case law on local government in India as there is in the United States.

Though local governments have the status of a constitution whose fundamental features, such as the four innovations mentioned in the next section of this unit, cannot be amended by the second tier of government, they are not able to work as units of self-government. They rely on state governments that have conceded only political decentralization, not economic decentralization or the administrative decentralization of control and role. If the structural issue of the type of the arrangement of powers and jurisdictions were not considered, local government in India would not be able to pass the other test of a special mode of political and social behaviour, which involves a commitment to partnerships and dynamic collaboration on the part of persons and institutions that at the same time are proud of safeguarding their own integrity. There is no dependable obligation among the states' political leaders to these kinds of liaisons for the simple reason that their acceptance depends on whether it will be of use to them in keep hold of or obtaining political power. The support from politicians is dependent on their convenience. On the other hand, there is a commitment towards local government at the first tier of government. But this should be seen in terms of development and not in terms of democracy and federalism. The grass roots of India's new democracy deserve better nurturing than they appear to be receiving.

5.3 REFORMS IN THE URBAN AND RURAL BODIES: 73RD AND 74TH CONSTITUTIONAL AMENDMENT ACTS

With respect to rural India, reservation for women, *Dalits* and *Adivasis* gives these groups the accessibility to the symbolic capital that they need for their struggle for a just order. The amendments have produced the institutional opportunity, which should be considered as a big step

NOTES

in moving the goals of an inclusive democracy further. It still remains to be seen what actually takes place when these councils meet and function. Sociological studies need to be organized all over the country for identifying the conditions in which these marginalized groups are able to take up this opportunity. Our general understanding of the village tells us that it will not be easy for entrenched groups to permit institutional empowerment and they will cause hindrances in the way of these marginalized sections. It is hence important for us to know what these obstacles are, how they differ in form and substance from region to region, ways and means to overcome them and the resources that are needed to triumph over them. We also need to know if these groups are able to use the resources that are available, in what way can access those resources and so on. Researches prove that for using this institutional opportunity space in an effective way, literacy, some material security and social capital, along with other things, are required by these groups to overcome the multiple layers of domination that mark their condition of existence. Despite the presence of these obstacles, the reservation route is a major institutional advancement, which over a period of time, will result in thinning of the prevailing power asymmetrically. This is due to fact that at the very minimum, they give a vocal platform and a public face to groups that have so far been denied these opportunities. This in itself is a big advance.

The second advancement is the institutionalization of decentralized planning with the help of a mechanism of the district planning committee (DPC). The DPC attempts to make an integrated plan for both, rural and urban areas in the whole district. The reason for this here is that people must play a role in the planning process so that it is participative and therefore presumably in synchronization with needs of the people. It not only creates stakeholders, but also results in the social resources being used with an egalitarian distribution. DPCs are the only planning bodies that are empowered with constitutional sanctity and are gradually being established in a large number of states. Despite of this, their integration has not been done seriously into the planning process. Where people campaigned to have Delhi's ninth plan incorporate decentralization they did so not through the institution of the DPC, but through the State Planning Board. There are a number of arguments for having plans that have been produced by DPCs. To begin with; they come up with a plan for distributing resources that is more in synchronization with local needs. This is not like previous plans that were imposed from higher levels of hierarchy. Hence their legitimacy is higher. Secondly, the concerned process has valuable educational consequences for a large number of people, related to issues like the relevance of rules and statutes of local government, techniques of Participatory Rural Appraisal (PRA), micro-development models, project formulation and appraisal and general issues that concern the challenges to development.

NOTES

The third pioneering characteristic is the emergence of two new commissions, State Election Commissions (SEC) and State Finance Commissions (SFC). The job of the SEC is similar to that of the Central Election Commission (CEC), which is to supervise, direct, be in command of and conduct all elections to the Panchayats and *Nagar Palikas*. This has made sure that elections are held at standard intervals, are just and unbiased, are openly contested and that state governments do not try to delay or invalidate results of the elections, as they have repeatedly and carelessly done in the past. The reliability of the electoral process, in the form of selection of one's governors is hence retained. The long-term gains of such state authorities are dual. SECs will produce a power that will countervail the dominant power structure because now the excluded castes will be able to use the vote for increasing their power to bargain. This will also increase the accountability of the local representatives and their responsiveness to local needs because the distance between elected and elector is much less than in the case of higher tiers of representative government. Ever since they have been established, SECs in a few of the states have had to experience problems related to matters such as election notification, setting the limits of constituencies, reservation of seats, turning round of reserved seats, etc. However, these should be considered as part of the dialectics of power between the second and third tiers of government, which over a period of time, contribute to institutional evolution.

The second commission, the SFC, has not achieved much success in transferring the finances of the state to the third tier; this is the reason that, financial decentralization has not been able to move along with political decentralization. Still there is no expanded information related to the operation of these authorities, and hence evaluating them is not easy. However, their characteristic of just being points out towards a rise in the institutional density of representative democracy at the level of local government. So far Gram Panchayat was the only institution that local government had. However, along with the addition of the SEC, SFC and Gram Sabha, the number of institutions related to local governance has gone up, thus being a contribution to institutional density. It is expected that this will make local government governed by rules, to a greater extent. In a Weberian sense, this can be considered as making up before hand. The added advantage of the SFC is that what it recommends will, over the period of time, come to be considered as the benchmark for discussions on the financial factors of decentralized governance. One significant effect of the conducting of regular elections is that it churns out a new contest for local political leadership. Even though conventional brokers of power still function, their competition now will be with new competitors. Elections for the third-tier adds to the representative concentration of democracy in India, because now the number of elected representatives in the polity has increased considerably from under 6,000 to about three million. These bring in a new dynamic into the functioning of the polity since these representatives

are now available for helping people in negotiating their way through the system. They can be referred to as the new fixers of local politics.

The fourth advancement and one which can be considered of much value, to a certain degree, is converting the village assembly (Gram Sabha) into an institution. Here every adult member of the village will be able to come and deliberate on matters related to the village. The majority of villages have less than 1,000 inhabitants. The underlying principle behind the conception of this deliberative space is not just to pull the democracy downwards, or to expand involvement, but also to bring together representative democracy with direct one and consequently draw the benefits of both. The village assembly is supposed to work like a watchdog and keep a check on the functioning of the village council (Gram Panchayat). The formation of such a prospect for debate, a deliberative space in which everyone can be a participant, within an Indian village that is marked by the boundaries of caste, class and gender, is by all means a major step. These are limitations that have been instrumental in the function of disciplining social behavior in the village. Over a period of time, they have become a part of people's life-world. If crossed, in breach of norms, the effects can be disastrous. In this kind of a village, a deliberative space that is accessible to everyone, where groups are required to interact, is now being created through law. In this sense, the law is progressive because it does not make allowances to the matrix of rural power. In actual terms, it attempts to destabilize this matrix through its strategy of reservations. The list of 13 functions gives the village assembly (Gram Sabha) a fairly wide jurisdiction. Yet the Consultation Paper on Decentralization states that the experience of the last seven years of the post 73rd Constitution Amendment phase shows that the Gram Sabha is yet to emerge as a forum where common people can participate in the process of collective decision-making.

Attention has been drawn to the Gram Sabha because it is an interesting case study for the important theoretical debates on political institutions. Two aspects of these debates need to be tested. The first aspect is the classical view that "institutions are not only 'the rules of the game' (but) they also affect what values are established in a society, that is, what we regard as justice, collective identity, belonging, trust, and solidarity. Given what was said earlier about the nature of village society, about boundaries and their crossing and the penalties that flow from such behavior, it would be interesting to map how the Gram Sabha is able to affect what values are established in society and how the clash of those values of the village assembly, of inclusion and equal citizenship, and those represented by the traditional caste and patriarchal structures, of exclusion and hierarchy, play themselves out. The second aspect is the view that political institutions not only distribute power and influence, or discipline society, but also influence how various groups come to define their political interests.

NOTES

NOTES

They influence their strategies because they determine: who are the legitimate actors, the numbers of actors, the ordering of action, and what information actors will have about each other's intentions. This view holds that small and seemingly unimportant changes in institutional rules can affect strategy and greatly influence the outcome of political processes. We need therefore to discover how the discursive and public character of the village assembly meant the individual's preferences, or those of groups, which causes them to define their self-interests once more. One strategy that has been taken on by commanding groups is to alter the rules of the game in ways which are believed to serve their benefits, by the retaining and extension of that power. In terms of this institution-society dialectic, there are three problems that need to be argued on at the time of accessing data related to the functioning of village assemblies. To begin with, we need to know that to what extent institutions discipline society. In other words, what is the rate of success of the assembly in setting up a form of social behavior that is consistent with the rules of the institution? Does it, for instance, produce in the participants' recognition related to the equality of members, an equality that is neutral on the scales of gender, caste and class? Does it succeed in producing a commitment to the procedural integrity of the institution or of its autonomous authority? Secondly, to what extent does the power structure in society undermine the institution. In other words, if the rules of the institution are not in synchronization with the norms and mores of the society, will the norms undergo any alteration or will the rules come made to order and unclear? Third, is there a threshold point, which depends on the critical mass, on speculation and on location, when one logic gives way to another? It is important to understand the requirements to achieve this threshold. The functioning of the village assembly has to be visualized in terms of this dialectic. The data that emerges from the ground is starting to provide a sense of the active relationship between the external areas and the internal groups. Are the external areas eating the internal groups or is it the other way around? The experience of manipulation of the Gram Sabha has since been approved by other observers who have talked about a few of the ways in which this is done. This state of affairs has been worsened by the factual data, as reported in Andhra Pradesh, that Gram Panchayats are not strong in terms of functions and finances and are not able to take the responsibility of providing fundamental services and community development. As a rule, the people have no faith in the PRIs and they hardly have any incentive to attend the meetings of the Gram Sabha at the cost of their time, wages and own work. A few of these weaknesses can be triumphed over by government orders, such as a fine-tuning of the law that states the days and the frequency (a minimum of two) when the Gram Sabhas are to be held, for instance, the holidays of 26th January, 15th August, or 2nd October. Others need to be taken care of through political means, particularly by a stronger political determination to transfer authority, functions and finances, or by social

NOTES

action. From the above explanation on the functioning of the Gram Sabha, three issues seem to require additional reflection. The first is low turnout. Is this due to the apprehension of partaking, a prudential approach on the parts of the feeble and vulnerable sections in society? Is it because of the inconvenience of the site? Is it the timing of the Gram Sabha, with women, *Dalits* and *Adivasis* being handicapped in particular? Is it due to the ineptness of the Gram Sabha, since in a large number of the states it is chiefly a body that provides recommendations? Is it because of a universal political indifference? We need to examine why the turnout at Gram Sabha assembly is so low because good attendance is at the very heart of the project of decentralized democracy. It creates lucidity, answerability, accountability, contribution, political self-realization and improved governance. In case of a good attendance not being present, the rural oligarchy will persist to rule and does so now by bringing into play the authority of the Gram Sabha and providing a democratic face for oligarchic governance.

One practical interpretation of the reason behind low attendance is in terms of the prospects and expenses of participation. These prospective costs turn out to be high among the poor sections of the society and in particular, among those women whose family obligations hardly permit them any extra time. There is no assurance that the poor communities will be able to make themselves heard sufficiently, in the Gram Sabha. A few of them may find that it is easy to get things done with the help of their conventional representatives instead of participating in a large body like the Gram Sabha, which stresses on the requirement of skills. These are the basic facts that have to be contended with while taking into consideration the position of the Gram Sabha with respect to the Gram Panchayat. The other issue is the manipulation of records by the Sarpanch or Panchayat secretary. This problem cannot be resolved by creating more procedures for the simple reason that the issue of manipulated records raises the classic problem of who will supervise the concerned supervisors. One of the solutions is to depend on instruments external to the formal PRI system. Dependence on the freedom of information movement has been recommended. This has substantial merit, the outcome of which should be a more transparent system. However, this route too has had to contend with hindrances such as the ones discussed about below:

Institutional innovations need to be retained and maybe incessantly restructured, otherwise they become a schedule. Inertia sets in and the privileged democracy again wins over the people's democracy. Hence, it is important to remember that the struggle for good governance is not just the measures to an end but the end itself. The process is the objective. The third issue is that of the aggression that the overriding groups in the village let loose on the weaker groups that seek out to use the Gram Sabha to put across their claims. How does one deal with this type of violence, particularly pertaining to a police force that is controlled by the dominating castes, that is not sensitive

NOTES

and not attentive to the predicament of the suppressed groups and that actually speaking embodies the mores of traditional society? When envisioning the power of the PRI, one has to consider the phenomenon of retaliatory hostility, mainly since it is aimed against the most unprivileged sections of the society, people who have minimum access to the redressal equipment of the state. From this concise description of the functioning of the Gram Sabha, it is obvious that the battle between the fence and the field is on. The Gram Sabha, as a modern institution, is making an attempt to regulate the traditional society that, as pointed out previously, is antagonistic to the idea of a rational debate that is based on the prescribed rules. In this struggle, prevailing groups have retaliated by trying to alter the conventions of the game by influencing records, by intimidating the weaker groups when they are staking their claims and by manipulating the procedural and social system to work according to their preference. Their proceedings, nevertheless, do not go without being contested since the marginalized groups also take advantage of this opportunity space for combating the power asymmetries of the village and stake their claims.

It seems that the village assemblies may have begun in the wrong direction, losing out to the well-established forces of conventional power in the villages. As it is believed that the disciplining of society is a lengthy, protracted process, we need to continuously keep collecting evidence from all over the country for accessing the direction of the battle eventually. Considering the numbers that are involved, there is a possibility that it will never be possible for a nationwide judgment to prevail. As an alternative, a record of victories and defeats may have to be kept region-wise. To make the working class democracy stronger, the intellectual and policy influential leaders have offered recommendations, which will make local government institutions more effective. Those that comprise of alteration of the institutional design are very high in popularity, although they comprise of only the essential but not adequate conditions for successful local government, particularly a successful PRI system. Supplementary, extra-institutional initiatives are essential. We need to increase the build-up capacity of Panches, village representatives, from these weaker groups by providing training programmes and offering them a small remuneration. We require associations between voluntary associations and PRIs. The movement for freedom of information has to be made stronger. Political struggles should be highly motivated. The text on PRIs is full of suggestions on the ways to increase the effectiveness of local government.

Check Your Progress

4. What is the job of the SEC?
5. How is the village assembly supposed to work?
6. How is the Gram Sabha working as a modern institution?

5.4 SUMMARY

- This unit deals with the idea of autonomy of the local self-government with respect to the various laws related to the local self-government in India, since independence.

- It also describes how the decentralization of the power was an attempt to create greater autonomy for the local bodies. However, its implementation was delayed due to various reasons.
- This unit discusses that after the 73rd and 74th amendments the local bodies have become stronger and people have got real avenues of social justice and equality, despite the attempts of the ruling classes, otherwise.

NOTES

5.5 KEY TERMS

- **Socio-economic:** Relating to or concerned with the interaction of social and economic factors
- **State governments:** The governments ruling States of India
- **Union government:** The governing authority of a union of states and union territories
- **Two-tier:** A structure which indicates a commission on or over two levels
- **Polity:** A form or process of civil government or constitution
- **Dalits:** A member of the lowest caste
- **Adivasi:** An umbrella term for a heterogeneous set of ethnic and tribal groups believed to be the aboriginal population of India
- **Dialectical:** Relating to the logical discussion of ideas and opinions
- **Jurisdiction:** The official power to make legal decisions and judgments
- **State Finance Commission:** A government body that helps in improving the financial condition of the various local bodies such as Panchayati Raj institutions and municipal bodies that are there in the states
- **Nagar Palika:** An urban local body that administers a city of population 20,000 or more

5.6 ANSWERS TO CHECK YOUR PROGRESS

1. Larger people's participation in the government's functioning is the main criterion of the success of the local self-government.
2. If government is to function as a service for the benefit of the people, state and local administrations must work as two active and co-operative members of a partnership.
3. In the year 1993, a unanimous agreement took place in the parliament, which was in favour of introducing of local self-government all over the country.

NOTES

4. The job of the SEC is to supervise, direct, be in command of and conduct all elections to the Panchayats and *Nagar Palikas*.
5. The village assembly is supposed to work like a watchdog and keep a check on the functioning of the village council (Gram Panchayat).
6. The Gram Sabha, as a modern institution, is making an attempt to regulate the traditional society that, as pointed out previously, is antagonistic to the idea of a rational debate that is based on the prescribed rules.

5.7 QUESTIONS AND EXERCISES

Short-Answer Questions

1. Which article in the constitution mentions about the State Finance Commission? How is it related to the autonomy of the local bodies?
2. What is the role of the executive officer in the Zila Parishad?
3. Is reservation for Backward Classes defined by the Constitution?
4. Who can be the member of the Gram Sabha?

Long-Answer Questions

1. Discuss the autonomy of local bodies in detail.
2. What are the reforms incorporated in the urban and rural bodies, in the backdrop of the 73rd and 74th constitutional amendment acts?

5.8 FURTHER READING

References

- D'Souza, Peter Ronald (2003), 'The Struggle for Local Government: Indian Democracy's New Phase', *Publius*, 33 (4): 99-118.
- Singhal, Mohan (1970), 'State Government and Local Administration: From Control to Cooperation', *Economic and Political Weekly*, 5 (28): 1098-1101.
- Singh, Hoshier (1994), 'Constitutional Base for Panchayati Raj in India: The 73rd Amendment', *Asian Survey*, 34 (9): 818-827.

Website:

<http://lawmin.nic.in/ncrwc/ncrwcreport.htm>

**THE CONSTITUTION
(SEVENTY-THIRD AMENDMENT) ACT, 1992****NOTES****Statement of Objects and Reasons**

Though the Panchayati Raj Institutions have been in existence for a long time, it has been observed that these institutions have not been able to acquire the status and dignity of viable and responsive people's bodies due to a number of reasons including absence of regular elections, prolonged super sessions, insufficient representation of weaker sections like Scheduled Castes, Scheduled Tribes and women, inadequate devolution of powers and lack of financial resources.

Article 40 of the Constitution which enshrines one of the Directive Principles of State Policy lays down that the State shall take steps to organise village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. In the light of the experience in the last forty years and in view of the short-comings which have been observed, it is considered that there is an imperative need to enshrine in the Constitution certain basic and essential features of Panchayati Raj Institutions to impart certainty, continuity and strength to them. Accordingly, it is proposed to add a new Part relating to Panchayats in the Constitution to provide for among other things, Gram Sabha in a village or group of villages; constitution of Panchayats at village and other level or levels; direct elections to all seats in Panchayats at the village and intermediate level, if any, and to the offices of Chairpersons of Panchayats at such levels; reservation of seats for the Scheduled Castes and Scheduled Tribes in proportion to their population for membership of Panchayats and office of Chairpersons in Panchayats at each level; reservation of not less than one-third of the seats for women; fixing tenure of 5 years for Panchayats and holding elections within a period of 6 months in the event of super session of any Panchayat; disqualifications for membership of Panchayats; devolution by the State Legislature of powers and responsibilities upon the Panchayats with respect to the preparation of plans for economic developments and social justice and for the implementation of development schemes; sound finance of the Panchayats by securing authorisation from State Legislatures for grants-in-aid to the Panchayats from the Consolidated Fund of the State, as also assignment to, or appropriation by, the Panchayats of the revenues of designated taxes, duties, tolls and fees; setting up of a Finance Commission within one year of the proposed amendment and thereafter every 5 years to review the financial position of Panchayats; auditing of accounts of the Panchayats; powers of State Legislatures to make

NOTES

provisions with respect to elections to Panchayats under the superintendence, direction and control of the chief electoral officer of the State; application of the provisions of the said Part to Union territories; excluding certain States and areas from the application of the provisions of the said Part; continuance of existing laws and Panchayats until one year from the commencement of the proposed amendment and barring interference by courts in electoral matters relating to Panchayats.

Provisions

Article 243

Definitions

In this Part, unless the context otherwise requires:

- (a) “district” means a district in a State;
- (b) “Gram Sabha” means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level;
- (c) “Intermediate level” means a level between the village and district levels specified by the Governor of a State by public notification to be the intermediate level for the purposes of this Part;
- (d) “Panchayat” means an institution (by whatever name called) of self-government constituted under article 243B, for the rural areas;
- (e) “Panchayat area” means the territorial area of a Panchayat;
- (f) “population” means the population as ascertained at the last preceding census of which the relevant figures have been published;
- (g) “village” means a village specified by the Governor by public notification to be a village for the purposes of this Part and includes a group of villages so specified.

243A. Gram Sabha

A Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a state may, by law, provide.

243B. Constitution of Panchayats

1. There shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of this Part.
2. Notwithstanding anything in clause (1), Panchayats at the intermediate level may not be constituted in a State having a population not exceeding twenty lakhs.

243C. Composition of Panchayats

1. Subject to the provisions of this Part, the Legislature of a State may, by law, make provisions with respect to the composition of Panchayats:

Provided that the ratio between the population of the territorial area of a Panchayat at any level and the number of seats in such Panchayat to be filled by election shall, so far as practicable, be the same throughout the state.

2. All the seats in a Panchayat shall be filled by persons chosen by direct election from territorial constituencies in the Panchayat area and; for this purpose, each Panchayat area shall be divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it shall, so far as practicable, be the same throughout the Panchayat area.
3. The legislature of a state may, by law, provide for the representation-
 - (a) of the Chairpersons of the Panchayats at the village level, in the Panchayats at the intermediate level or, in the case of a State not having Panchayats at the intermediate level, in the Panchayats at the district level;
 - (b) of the Chairpersons of the Panchayats at the intermediate level, in the Panchayats at the district level;
 - (c) of the members of the House of the People and the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly a Panchayat area at a level other than the village level, in such Panchayat;
 - (d) of the members of the Council of States and the members of the Legislative Council of the State, where they are registered as electors within (i) a Panchayat area at the intermediate level, in Panchayat at the intermediate level; (ii) a Panchayat area at the district level, in Panchayat at the district level.
4. The Chairperson of a Panchayat and other members of a Panchayat whether or not chosen by direct election from territorial constituencies in the Panchayat area shall have the right to vote in the meetings of the Panchayats.
5. The Chairperson of -
 - (a) a Panchayat at the village level shall be elected in such manner as the Legislature of a State may, by law, provide; and
 - (b) a Panchayat at the intermediate level or district level shall be elected by, and from amongst, the elected members thereof.

243D. Reservation of seats

1. Seats shall be reserved for-
 - (a) the Scheduled Castes; and
 - (b) the Scheduled Tribes, in every Panchayat and the number of seats of reserved shall bear, as nearly as may be, the

NOTES

NOTES

same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.

2. Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.
3. Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat.
4. The offices of the Chairpersons in the Panchayats at the village or any other level shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide:

Provided that the number of offices of Chairpersons reserved for the Scheduled Castes and the Scheduled Tribes in the Panchayats at each level in any State shall bear, as nearly as may be, the same proportion to the total number of such offices in the Panchayats at each level as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State:

Provided further that not less than one-third of the total number of offices of Chairpersons in the Panchayats at each level shall be reserved for women:

Provided also that the number of offices reserved under this clause shall be allotted by rotation to different Panchayats at each level.

5. The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.
6. Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Panchayat or offices of Chairpersons in the Panchayats at any level in favour of backward class of citizens.

243E. Duration of Panchayats, etc.

1. Every Panchayat, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.
2. No amendment of any law for the time being in force shall have the effect of causing dissolution of a Panchayat at any level, which

is functioning immediately before such amendment, till the expiration of its duration specified in clause (1).

3. An election to constitute a Panchayat shall be completed-
 - (a) before the expiry of its duration specified in clause (1);
 - (b) before the expiration of a period of six months from the date of its dissolution:
Provided that where the remainder of the period for which the dissolved Panchayat would have continued is less than six months, it shall not be necessary to hold any election under this clause for constituting the Panchayat for such period.
4. A Panchayat constituted upon the dissolution of a Panchayat before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Panchayat would have continued under clause (1) had it not been so dissolved.

243F. Disqualifications for membership

1. A person shall be disqualified for being chosen as, and for being, a member of a Panchayat-
 - (a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned:
Provided that no person shall be disqualified on the ground that he is less than twenty-five years of age, if he has attained the age of twenty-one years;
 - (b) if he is so disqualified by or under any law made by the legislature of the state.
2. If any question arises as to whether a member of a Panchayat has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

243G. Powers, authority and responsibilities of Panchayats

Subject to the provisions of this Constitution, the Legislature of a state may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to:

- (a) the preparation of plans for economic development and social justice;
- (b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule (discussed ahead).

NOTES

NOTES

243H. Powers to impose taxes by, and Funds of, the Panchayats

The Legislature of a State may, by law:

- (a) authorise a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;
- (b) assign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;
- (c) Provide for making such grants-in-aid to the Panchayats from the Consolidated Fund of the State; and
- (d) provide for Constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Panchayats and also for the withdrawal of such moneys there from, as may be specified in the law.

243-I. Constitution of Finance Commission to review financial Position

1. The Governor of a State shall, as soon as may be within one year from the commencement of the Constitution (Seventy-third Amendment) Act, 1992, and thereafter at the expiration of every fifth year, constitute a Finance Commission to review the financial position of the Panchayats and to make recommendations to the Governor as to-
 - (a) the principles which should govern:
 - (i) the distribution between the State and the Panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Panchayats at all levels of their respective shares of such proceeds;
 - (ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Panchayat;
 - (iii) the grants-in-aid to the Panchayats from the Consolidated Fund of the State;
 - (b) the measures needed to improve the financial position of the Panchayats;
 - (c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Panchayats.
2. The Legislature of a State may, by law, provide for the composition of the commission, the qualifications which shall be requisite for appointment as members thereof and the manner in which they shall be selected.

3. The Commission shall determine their procedure and shall have such powers in the performance of their functions as the Legislature of the State may, by law, confer on them.
4. The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

NOTES

243J. Audit of accounts of Panchayats

The Legislature of a state may, by law, make provisions with respect to the maintenance of accounts by the Panchayats and the auditing of such accounts.

243K. Elections to the Panchayats

1. The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of, all elections to the Panchayats shall be vested in a State Election Commission consisting of a State Election Commissioner to be appointed by the Governor.
2. Subject to the provisions of any law made by the Legislature of a State, the conditions of service and tenure of office of the State Election Commissioner shall be such as the Governor may by rule determine:

Provided that the State Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.
3. The Governor of a State shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by clause (1).
4. Subject to the provisions of this Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Panchayats.

243L. Application to Union territories

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

Provided that the president may, by public notification, direct that the provisions of this Part shall apply to any Union territory or part thereof

NOTES

subject to such exceptions and modifications as he may specify in the notification.

243M. Part not to apply to certain areas

1. Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244.
2. Nothing in this Part shall apply to:
 - (a) the States of Nagaland, Meghalaya and Mizoram;
 - (b) the Hill Areas in the State of Manipur for which District Councils exist under any law for the time being in force.
3. Nothing in this Part:
 - (a) relating to Panchayats at the district level shall apply to the hill areas of the District of Darjeeling in the State of West Bengal for which Darjeeling Gorkha Hill Council exists under any law for the time being in force;
 - (b) shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under such law.
4. Notwithstanding anything in this Constitution:
 - (a) the Legislature of a State referred to in sub-clause a of clause (2) may, by law, extend this Part to that State, except the areas, if any, referred to in clause (1), if the Legislative Assembly of that State passes a resolution to that effect by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting;
 - (b) Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.

243N. Continuance of existing laws and Panchayats

Notwithstanding anything in this Part, any provision of any law relating to Panchayats in force in a State immediately before the commencement of the Constitution (Seventy-third Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

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

243-O. Bar to interference by courts in electoral matters

Notwithstanding anything in this Constitution-

- (a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243K, shall not be called in question in any court;
- (b) no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State. Constitution, after sub-clause (b), the following sub-clause shall be inserted, namely:-

“the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Panchayats in the State on the basis of the recommendations made by the Finance Commission of the State.

Eleventh Schedule

(Article 243G)

1. Agriculture, including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation.
3. Minor irrigation, water management and watershed development.
4. Animal husbandry, dairying and poultry.
5. Fisheries.
6. Social forestry and farm forestry.
7. Minor forest produce.
8. Small scale industries, including food processing industries.
9. Khadi, village and cottage industries.
10. Rural housing.
11. Drinking water.
12. Fuel and fodder.
13. Roads, culverts, bridges, ferries, waterways and other means of communication.
14. Rural electrification, including distribution of electricity.
15. Non-conventional energy sources.
16. Poverty alleviation programme.
17. Education, including primary and secondary schools.
18. Technical training and vocational education.
19. Adult and non-formal education.
20. Libraries.

NOTES

NOTES

21. Cultural activities.
22. Markets and fairs.
23. Health and sanitation, including hospitals, primary health centres and dispensaries.
24. Family welfare.
25. Women and child development.
26. Social welfare, including welfare of the handicapped and mentally retarded.
27. Welfare of the weaker sections, and in particular, of the Scheduled Castes and the Scheduled Tribes.
28. Public distribution system.
29. Maintenance of community assets.

Source: indiacode.nic.in/coiweb/amend/amend

**THE CONSTITUTION
(SEVENTY-FOURTH AMENDMENT) ACT, 1992****NOTES****Statement of Objects and Reasons appended to the Constitution
(Seventy-third Amendment) Bill, 1991 which was enacted as the
Constitution (Seventy-fourth Amendment) Act, 1992**

1. In many states local bodies have become weak and ineffective on account of a variety of reasons, including the failure to hold regular elections, prolonged super sessions and inadequate devolution of powers and functions. As a result, Urban Local Bodies are not able to perform effectively as vibrant democratic units of self-government.
2. Having regard to these inadequacies, it is considered necessary that provisions relating to Urban Local Bodies are incorporated in the Constitution particularly for:
 - (i) Putting on a firmer footing the relationship between the State Government and the Urban Local Bodies with respect to-
 - (a) The functions and taxation powers; and
 - (b) Arrangements for revenue sharing;
 - (ii) Ensuring regular conduct of elections;
 - (iii) Ensuring timely elections in the case of super session; and
 - (iv) Providing adequate representation for the weaker sections like Scheduled Castes, Scheduled Tribes and women.
3. Accordingly, it is proposed to add a new part relating to the Urban Local Bodies in the Constitution to provide for:
 - (a) constitution of three types of Municipalities:
 - (i) Nagar Panchayats for areas in transition from a rural area to urban area;
 - (ii) Municipal Councils for smaller urban areas;
 - (iii) Municipal Corporations for larger urban areas.

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

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

NOTES

- (c) election of Chairpersons of a Municipality in the manner specified in the State law;
- (d) constitution of Committees at ward level or other level or levels within the territorial area of a Municipality as may be provided in the State law;
- (e) reservation of seats in every Municipality:
 - (i) for Scheduled Castes and Scheduled Tribes in proportion to their population of which not less than one-third shall be for women;
 - (ii) for women which shall not less than one-third of the total number of seats;
 - (iii) in favour of backward class of citizens if so provided by the Legislature of the State;
 - (iv) for Scheduled Castes, Scheduled Tribes and women in the office of Chairpersons as may be specified in the State law;
 - (f) fixed tenure of 5 years for the Municipality and re-election within six months of end of tenure. If a Municipality is dissolved before expiration of its duration, elections to be held within a period of six months of its dissolution;
 - (g) devolution by the State Legislature of powers and responsibilities upon the Municipalities with respect to preparation of plans for economic development and social justice, and for the implementation of development schemes as may be required to enable them to function as institutions of self-government;
 - (h) levy of taxes and duties by Municipalities, assigning of such taxes and duties to Municipalities by State Governments and for making grants-in-aid by the State to the Municipalities as may be provided in the State law;
 - (i) a Finance Commission to review the finances of the Municipalities and to recommend principles for:
 1. Determining the taxes which may be assigned to the Municipalities;
 2. Sharing of taxes between the State and Municipalities;
 3. Grants-in-aid to the Municipalities from the Consolidated Fund of the state;
 - (j) Audit of accounts of the Municipal Corporations by the Comptroller and Auditor-General of India and laying of reports before the Legislature of the State and the Municipal Corporation concerned;
 - (k) Making of law by a State Legislature with respect to elections to the Municipalities to be conducted under

the superintendence, direction and control of the chief electoral officer of the State;

- (l) Application of the provisions of the Bill to any Union territory or part thereof with such modifications as may be specified by the President;
- (m) Exempting Scheduled areas referred to in clause (1), and tribal areas referred to in clause (2), of article 244, from the application of the provisions of the Bill. Extension of provisions of the Bill to such areas may be done by Parliament by law;
- (n) Disqualifications for membership of a Municipality;
- (o) Bar of jurisdiction of Courts in matters relating to elections to the Municipalities.

4. The Bill seeks to achieve the aforesaid objectives.

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

PART IXA

The Municipalities

243P. Definitions

In this Part, unless the context otherwise requires:

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

243Q. Constitution of Municipalities

1. There shall be constituted in every state:

- (a) A Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;

NOTES

NOTES

(b) a Municipal Council for a smaller urban area; and (c) a Municipal Corporation for a larger urban area, in accordance with the provisions of this Part:

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

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

243R. Composition of Municipalities

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

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

(b) the manner of election of the Chairperson of a Municipality.

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

1. There shall be constituted Wards Committees, consisting of one or more wards, within the territorial area of a Municipality having a population of three lakhs or more.

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

243T. Reservation of seats

1. Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the Municipal area or of the Scheduled Tribes in the Municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Municipality.
2. Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.
3. Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.
4. The offices of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.
5. The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

NOTES

NOTES

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

243U. Duration of Municipalities, etc.

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

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

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

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

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

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

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

243V. Disqualifications for membership

1. A person shall be disqualified for being chosen as, and for being, a member of a Municipality-

- (a) if he is so disqualified by or under any law for the time being in force for the purposes of elections to the Legislature of the State concerned:

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

- (b) if he is so disqualified by or under any law made by the Legislature of the State.

2. If any question arises as to whether a member of a Municipality has become subject to any of the disqualifications mentioned in clause (1), the question shall be referred for the decision of such authority and in such manner as the Legislature of a State may, by law, provide.

243W. Powers, authority and responsibilities of Municipalities, etc.

Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow:

- (a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to-
 - (i) the preparation of plans for economic development and social justice;
 - (ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;
- (b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.

243X. Power to impose taxes by, and Funds of, the Municipalities

The Legislature of a State may, by law:

- (a) authorise a Municipality to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;
- (b) assign to a Municipality such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits;
- (c) provide for making such grants-in-aid to the Municipalities from the Consolidated Fund of the State; and
- (d) provide for constitution of such Funds for crediting all moneys received, respectively, by or on behalf of the Municipalities and also for the withdrawal of such moneys therefrom.

243Y. Finance Commission

1. The Finance Commission constituted under article 243-I shall also review the financial position of the Municipalities and make recommendations to the Governor as to:
 - (a) the principles which should govern:
 - (i) the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Municipalities at all levels of their respective shares of such proceeds;

NOTES

NOTES

- (ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Municipalities;
 - (iii) the grants-in-aid to the Municipalities from the Consolidated Fund of the State;
- (b) the measures needed to improve the financial position of the Municipalities;
- (c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.
2. The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.

243Z. Audit of accounts of Municipalities

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

243ZA. Elections to the Municipalities

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

243ZB. Application to Union territories

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

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

243ZC. Part not to apply to certain areas

1. Nothing in this Part shall apply to the Scheduled Areas referred to in clause (1), and the tribal areas referred to in clause (2), of article 244.

2. Nothing in this Part shall be construed to affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under any law for the time being in force for the hill areas of the district of Darjeeling in the State of West Bengal.
3. Notwithstanding anything in this Constitution, Parliament may, by law, extend the provisions of this Part to the Scheduled Areas and the tribal areas referred to in clause (1) subject to such exceptions and modifications as may be specified in such law, and no such law shall be deemed to be an amendment of this Constitution for the purposes of article 368.

NOTES

243ZD. Committee for district planning

1. There shall be constituted in every State at the district level a District Planning

Committee to consolidate the plans prepared by the Panchayats and the Municipalities in the district and to prepare a draft development plan for the district as a whole.

2. The Legislature of a State may, by law, make provision with respect to:
 - (a) the composition of the District Planning Committees;
 - (b) the manner in which the seats in such Committees shall be filled:

Provided that not less than four-fifths of the total number of members of such Committee shall be elected by, and from amongst, the elected members of the Panchayat at the district level and of the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district;

- (c) the functions relating to district planning which may be assigned to such Committees;
 - (d) the manner in which the Chairpersons of such Committees shall be chosen.
3. Every District Planning Committee shall, in preparing the draft development plan-
 - (a) Have regard to:
 - (i) matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;
 - (ii) the extent and type of available resources whether financial or otherwise;
 - (b) consult such institutions and organisations as the Governor may, by order, specify.
4. The Chairperson of every District Planning Committee shall forward the development plan, as recommended by such committee, to the Government of the State.

NOTES

243ZE. Committee for Metropolitan planning

1. There shall be constituted in every Metropolitan area a Metropolitan Planning

Committee to prepare a draft development plan for the Metropolitan area as a whole.

2. The Legislature of a State may, by law, make provision with respect to:

- (a) the composition of the Metropolitan Planning Committees;
- (b) the manner in which the seats in such Committees shall be filled:

Provided that not less than two-thirds of the members of such Committee shall be elected by, and from amongst, the elected members of the Municipalities and Chairpersons of the Panchayats in the Metropolitan area in proportion to the ratio between the population of the Municipalities and of the Panchayats in that area;

- (c) the representation in such Committees of the Government of India and the Government of the State and of such organisations and institutions as may be deemed necessary for carrying out the functions assigned to such Committees;
- (d) the functions relating to planning and coordination for the Metropolitan area which may be assigned to such Committees;
- (e) the manner in which the Chairpersons of such Committees shall be chosen.

3. Every Metropolitan Planning Committee shall, in preparing the draft development plan:

- (a) have regard to:
 - (i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area;
 - (ii) matters of common interest between the Municipalities and the Panchayats, including co-ordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;
 - (iii) the overall objectives and priorities set by the Government of India and the Government of the State;
 - (iv) the extent and nature of investments likely to be made in the Metropolitan area by agencies of the Government of India and of the Government of the State and other available resources whether financial or otherwise;
- (b) consult such institutions and organisations as the Governor may, by order, specify.

4. The Chairperson of every Metropolitan Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.

243ZF. Continuance of existing laws and Municipalities

Notwithstanding anything in this Part, any provision of any law relating to Municipalities in force in a State immediately before the commencement of THE CONSTITUTION (Seventy-fourth Amendment) Act, 1992, which is inconsistent with the provisions of this Part, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from such commencement, whichever is earlier:

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

243ZG. Bar to interference by courts in electoral matters

Notwithstanding anything in this Constitution-

- (a) the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies, made or purporting to be made under article 243ZA shall not be called in question in any court;
- (b) no election to any Municipality shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any law made by the Legislature of a State.

Amendment of Article 280

In clause (3) of article 280 of the Constitution, sub-clause (c) shall be relettered as sub-clause (d) and before sub-clause (d) as so relettered, the following sub-clause shall be inserted, namely:

- “(c) the measures needed to augment the Consolidated Fund of a State to supplement the resources of the Municipalities in the State on the basis of the recommendations made by the Finance Commission of the State;”.

Twelfth Schedule (Article 243W)

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

1. Urban planning including town planning
2. Regulation of land-use and construction of buildings
3. Planning for economic and social development
4. Roads and bridges
5. Water supply for domestic, industrial and commercial purposes

NOTES

NOTES

6. Public health, sanitation conservancy and solid waste management
7. Fire services
8. Urban forestry, protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded
10. Slum improvement and upgradation
11. Urban poverty alleviation
12. Provision of urban amenities and facilities such as parks, gardens, playgrounds.
13. Promotion of cultural, educational and aesthetic aspects
14. Burials and burial grounds; cremations, cremation grounds and electric crematoriums
15. Cattle pounds; prevention of cruelty to animals
16. Vital statistics including registration of births and deaths
17. Public amenities including street lighting, parking lots, bus stops and public conveniences
18. Regulation of slaughter houses and tanneries

Source: indiacode.nic.in/coiweb/amend/amend