

# URBAN GOVERNANCE IN INDIA FUNDAMENTAL ISSUES

- *Jayaprakash Narayan*\*

## **Introduction:**

2005 had witnessed unusually severe natural calamities affecting the sub-continent. The tsunami of December 2004, the Mumbai floods of July 2005, and the Muzaffarabad earthquake - October 2005 - have caused great devastation. But these disasters have a silver lining for India. Our administration did respond with some vigor and alacrity compared with the littoral states of the Indian Ocean, US authorities in the wake of hurricane Katrina and Pakistan officials after the earthquake. The moribund governance apparatus, often accused of long periods of slumber interspersed only with regular extortion activity, has shown signs of life and utility.

The 1000mm rainfall on one day made Mumbai - a city surrounded by sea on all sides and above sea level – a floating city. From that moment on it was clear for everybody that Mumbai reflects one of India's crisis, due to this situation: abject poverty and despair in remote rural areas are forcing people to flee to Mumbai. This without taking into consideration the immediate solving of problems like: land management, housing, drainage, transport and civic amenities. In the mean time, politicians – who, most of them, see people as vote banks and not as living, pulsating human beings with dreams and aspirations -- are always ready to resort to cheap populism. Thus, problems become crises and eventually end up in disasters.

Most of our cities are bursting at the seams. Despite the cliché that India lives in her villages, a quiet demographic revolution is transforming the urban landscape. In states like Tamil Nadu, where in situ urbanization (villages and small towns growing, instead of large migration to big cities) is predominant, urbanization now has reached 43.9%.

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By 2015, India is predicted to have 34 cities in the population size range of 1.5 million and above, four of which will have crossed 10.0 million marks, with the city of Mumbai having the largest concentration of more than 27 million. According to Census 2001, the total urban settlements in the country are 5161 in number with 385 million (27%) urban population out of 1027 million population. The number of 'million plus' cities were 34 in number in 2001 and their number is expected to increase to 40 by 2015. The urban population is further expected to increase to 546 million by 2025. By 2030, half of India's 1 billion plus population will live in cities.

The answers to our urban challenges are self-evident. The need for massive investments in infrastructure – transport, water, drainage, sewerage and housing – is well-recognized. President Kalam rightly talks of creating urban amenities in rural areas to promote value addition, wealth creation and employment generation locally. Technocrats like Himanshu Parikh have been advocating comprehensive survey of natural water courses, and redesigning water supply, sewerage, drainage and roads to follow them. Biman Patel and his colleagues argue for better urban planning and low cost transport solutions. Konkan railways have been developing better technologies for urban mass transport. Swathi and Ramesh Ramanathan of Janaagraha have been championing people's participation and urban governance reform. All these approaches are vital and need to be integrated.

## **I. Structural Aspects of Urban Local Governments and their Constitutional Basis**

### **I.1. Constitution of Ward Committees and Their Empowerment**

Article 243 S of the Constitution provides for creation of Wards Committees (WC) consisting of one or more wards within the territorial areas of a municipality having a population of 3 lakh or more and it also empowers the legislature of a state to enact the necessary provisions for the (a) delimitation of territorial area and composition of a WC; and (b) manner in which seats in a WC shall be filled. The intent of Article 243 S is that municipalities having a population of 3 lakhs or more must have much smaller Ward Committees each comprising of smaller population of, say, 30,000 to 50,000, so that functions, which could be performed or conducted at the locality level, like maintenance

of street lighting, garbage clearance, repairs and maintenance of local roads etc., could be maintained at the ward level.

The 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment Acts aim at building local bodies as institutions of self-governance. The rationale behind increased participation between the people and their elected representatives is to enable more active involvement of the local citizens in the governance of their cities. Akin to the Gram Panchayat level in the village administration, Wards/WC comprises the additional tier between the higher levels of administration and the local residents.

### **Composition of the Ward Committees:**

A Ward Committee can be constituted with a member elected from each polling station in the Ward. In a polling station, there are approximately 1,500 voters and a polling booth covers an area with a population of 2,500 people. There will be approximately 15 polling stations in the Ward and hence a Ward Committee can be constituted with 15 members elected from these polling stations. The members elected from the polling stations will be residents of the locality that falls within the jurisdiction of the polling station. After getting elected if the members change their residence to a locality outside the jurisdiction of the polling station, they will be liable for disqualification. Similar to elections of Village Panchayat, the members of the Ward Committees will be elected by the residents by a simple method of local balloting and counting on the spot at each polling station, or raising of the hands and the elections will be on a non-party basis. The Ward Committee will be headed by the Councilor elected for the Ward and s/he will be the executive in-charge of the Ward. If the multi-member constituency system is adopted for Municipalities, there will be one Councilor in-charge of each ward, preferably based on residence, and s/he will chair the Ward Committee.

### **Functions of WC:**

There are certain functions of WC that are common to almost all states. Preparation and supervision of development schemes, assisting in collection of municipal tax, fees and rents, maintenance of sanitation, water supply and drainage, street lighting, upkeep of roads, markets, parks, redressal of public grievances are some of the conventional functions. Nevertheless, there is considerable variance among different states as regards the functional and financial powers of the WCs. Kerala has provided for the most broad-based participatory arrangements. Mobilization of voluntary labour for social

welfare programmes and assistance in identification of beneficiaries for the implementation of welfare and development schemes, apart from the regular functions, comprise the responsibilities of the WCs in Kerala.

In West Bengal, important functions of WCs include identification of problems and their prioritization; supervision of municipal works; watch on unauthorized constructions and suggesting requisite penal measures. Tamil Nadu WCs have all the functions that are assigned to the municipalities. Responsibilities of the Karnataka WCs (excluding the usual functions) are maintenance of health care services, slum improvement, issuance of license, birth and death certificates, permission letter for burial/cremation in the grounds, etc.

### **Financial Powers of WC:**

West Bengal, Madhya Pradesh, Kerala have all given substantial financial powers to the WCs. They have the authority to sanction finances for local developmental projects/works, employ people and recommend penal action to the municipality against defaulters. In most of the other states, WCs perform mere advisory roles. WCs in Karnataka have stringent limitations to accord administrative sanction to development work (not exceeding Rs.1 lakh with respect to Bangalore City Corporation and not exceeding Rs.50, 000 with respect to other corporations in a year, subject to availability of funds).

## **I.2. Direct Election to the Office of Mayor**

“Two offices that hold the balance of prestige & powers in the city government are those of the honorable Mayor of Mumbai and the Municipal Commissioner..... The Commissioner, a key figure in the local self-government is the executive head and is virtually under constant pressure by the citizens' councilors and the state administration. Each section looks upon him expectantly for results in the administration. ***He is the final administrative authority for the local self-government of Mumbai.***”

The above paragraph is from the official web site of *The Municipal Corporation of Greater Mumbai*. Why have things come to such a pass that an unelected official has become the final authority in “local self-government” of Mumbai? The answer is two-fold. First, the Mayor is indirectly elected, and as a consequence, the public, at large, do not consider her/him “as their Mayor”. Second, the Mayor tends to perform a mere ceremonial role associated with being the First Citizen of the Premier City of India.

Article 243 R of Indian Constitution empowers the state government to determine the manner of election of Mayors/Chairpersons in Municipalities. State governments such as Andhra Pradesh, Tamil Nadu, and Uttar Pradesh have enacted provisions that facilitate direct election of Mayor/Chairperson of the Municipalities.

<b>Countries Having Directly-Elected Mayors – A Sample</b>	
<b>Country</b>	<b>City</b>
Australia	Melbourne
Mexico	Mexico City
Canada	Ottawa
U.K.	London
	Middlesbrough
	Bedford
	Doncaster
	Greater London
	Hackney
	Lewisham
	Mansfield
	Newham
	North Tyneside
	Stoke-on-Trent
South Korea	Seoul
	Pusan
	Taegu
	Taejon
	Kwangju
	Inch'on

The indirect election system has snapped linkages between the Mayor and the electorate. As a result, there is indifference among the larger public towards the policy-making processes at the highest level in local government. Also, the Mayor is now susceptible to unwarranted pressures from the Councilors paving way for politics of patronage.

The direct election to the Mayor will have the following advantages:

- The city government will have a Chief Executive
  - The city government will have a stable and fixed tenure
  - The city government will provide fertile ground for leadership development
- The Chief Executive will have the capacity to deliver honestly without having to be beholden to Councilors.

Such direct election to the office of the Mayor will not in any way undermine the interests of the Councilors. Constitution of Ward Committee will substantially empower the Councilor and he/she would be in a position to provide basic amenities and meet the aspirations of the constituents. It should be noted that the Mayors/Chairpersons of Municipal Councils and Nagar Panchayats in Maharashtra are elected directly.

### **I.3. Proportional Representation in Urban Local Governments**

It has been more than a decade since the 74<sup>th</sup> Constitutional Amendment came into force. In Indian society, traditionally collective social or economic interest ensured certain amount of fairness, harmony and predictability in relations between individuals within a group. But across groups, this predictability often fails, leading to conflict. It is this conflict that is proving detrimental to the effective functioning of local governments. Hence, there is a need to encourage political participation and interest aggregation at the local level. This can be done by bringing about fundamental changes such as altering the electoral system to enhance the representative legitimacy of our democracy at the grass roots. The presence of local governments provide us with an opportunity to demonstrate that fair representation models such as proportional representation will result in a more inclusive, fair and democratic polity.

#### **Advantages of Multi-member Constituencies and Proportional Representation:**

- Reservation of seats can be ensured without rotation.
- As multi-member constituencies replace single member constituencies, the parties can nominate the most suitable candidates from the appropriate categories in the larger area, instead of putting up unsuitable and weak candidates in a small area.
- Proxy candidates will not be put up, as rotation of seats will not be necessary.
- Good candidates will get elected without money and muscle power, as the marginal vote of a candidate is not important. The overall image of the party and credibility of candidates determines the party's vote share, and therefore the number of seats it wins.
- Good candidates will have incentive to perform well, as there is no need for rotation.
- As candidates are elected in proportion to the vote obtained by a party, all social groups and opinions will have representation in local governments. The Municipality will represent all segments.

- All votes will have a value, and there will be no wasted votes. Therefore there will be greater participation of voters. Also, since there are no 'winners' and 'losers', all voters will have a stake in the Municipality formed.

The method is simple and easy for voters. The citizen has to give one vote for a party of her choice, based on the party's image and the list of candidates put up by the party. And the candidates are elected in proportion of votes obtained by the party.

#### **I.4. Creation of a City Ombudsman**

An independent Ombudsman of a High Court Judge's rank (a retired judge or chief justice) could be appointed by a collegium comprising of:

- The Mayor
- The Leader of Opposition
- A former Chief Justice known for integrity.

The Ombudsman will have an independent vigilance wing under his control to investigate cases and assist him. The Ombudsman will have the power to take any action or initiate disciplinary proceedings against any employee of BMC. BMC will not exercise any appellate powers.

The Ombudsman will be empowered to receive petitions and complaints, and he can take up any issue suo motu. His decisions on grievance redressal will be binding on the BMC.

#### **I.5. Constituting Metropolitan Planning Committees**

According to the 2001 census, there are 45 metropolitan areas in the country, each with a population of 10 lakhs or more. These areas are a mix of rural and urban populations and are administered by several municipalities and Gram Panchayats, due to which, there is little or no interaction between these bodies and, as a result, there is no holistic approach for the planning and development of the metropolitan areas. Urban transport, water supply, waste management, police, public health, education, etc., are essential for the survival and growth of the metropolitan areas, which are the engines of economic growth in this country. Management of these complex issues requires an institutional framework, which will allow metropolitan level planning, implementation and

coordination. Also, this planning mechanism should take care of the interaction between the various local bodies, both rural and urban in such urban areas.

**The current scenario:** states that even though the constitution provides for the formation of Metropolitan Planning Committees as per Article 243-ZE, many States have neglected these provisions, or created supra district bodies with real power in the hands of district legislators and State ministers.

In AP, there are bodies like Hyderabad Urban Development Authority (HUDA), Vijayawada Urban Development Authority (VUDA), etc., in place of the Metropolitan Planning Committees. Typically, the heads of these supra constitutional bodies are political appointees. There is no elected representation on these bodies, and they do not involve the surrounding panchayats or municipalities in their decision making process.

**Recommendations made:**

1. There shall be a Metropolitan Planning Committee in every metropolitan area of the State constituted, in accordance with Article 243 -ZE.
2. At least 2/3rds of the members of the committee shall comprise of elected heads of the panchayats and municipalities in the metropolitan area, according to the ratio of population between municipalities and panchayats. The remaining members can be nominated by the government and shall also include representatives of civil society. The Chairperson of the committee shall be the Mayor of the largest metropolitan city in the area.
3. The key functions of the Metropolitan Planning Committee shall be:
  - a. Zoning and Master Plan preparation - Preparation of Master Plan and administering of zoning laws
  - b. Approval of plans - To regulate and control all construction and development activity through statutory plans and other measures
  - c. Development fees collection - Shall be responsible for collection of development fees for all statutory clearances under its purview.
  - d. Preservation of environment - Shall be responsible for the preservation and protection of environment in the metropolitan area and shall closely work with other government agencies, which are also entrusted with the task of environment protection.



- e. Coordination - To coordinate with other public agencies concerned with provision of urban infrastructure, services and amenities, including urban transport, power, ports, water supply, waste management, education and health care.

The Metropolitan Planning Committee shall have the right to re-appropriate resources in the metropolitan area to suit its needs and requirements.

Clearly, there are many philosophical, constitutional, legislative, policy and practical issues, which have a bearing on local governments. Genuine transfer of powers to local governments is as momentous and complete as the transfer of power from alien British Raj to independent Indian government. But empowerment of the Local Government (by implementing the district and metropolitan committees) is something on its way. It can be today or tomorrow but it can not wait.

## **II. Main Problems of Urban Governance**

### **II.1. Urban Transport**

According to 2001 census, 285 million Indians lived in cities and towns, more than the American population. The residents of large metropolitan areas of Mumbai, Kolkata and Delhi now exceed 10 million each; Chennai, Bangalore, Hyderabad and Ahmedabad exceed 5 million each. And 35 other metropolitan areas have more than a million residents – almost twice as many as in 1991. Projections show that our urban population would grow to about 473 million in 2021 and 820 million by 2051.

At the current levels of urbanization, our cities are getting paralyzed and urban transport has become a nightmare, with big cities continuing to attract investments, technology and jobs. Such rapid urbanization and prosperity predictably led to dramatic growth in the number of motor vehicles on roads. There are now over 80 million vehicles in India and 7 million are added every year. About 70% of all vehicles are two-wheelers and over 12% are cars, while buses account for only 1% and goods vehicles about 5%. Public transport still accounts for a sizeable share of urban trips: 30% in cities between 1 and 2 million populations, 42% in 2-5 million population cities and 63% in over 5 million cities (Sreedharan 2003). But even where public transport exists, it is generally inefficient, slow, under funded, poorly managed, uncoordinated (between rail and bus, for instance), and unreliable. Predictably, more people are depending on private transport, congesting and polluting our cities. Our roads are unfriendly to pedestrians, bicycle riders and

public transport. Excise reduction, low interest loans, low motor vehicle tax (as opposed to 2000 Euros in Europe and \$ 5000 in China), precedence to cars over buses and people in traffic regulation and poor parking regulation actively encourage private transport and discourage public transport. Not surprisingly, the fastest growth in oil consumption (8.3mt of petrol and 39.7mt of HSD in 2004/5) is in auto fuel sector.

Recent initiatives in several major cities are encouraging, if insufficient. The draft National Urban Transport Policy (2005) of GOI is a sensible document reconciling the growth of automobile industry with rational urban transport choices. Huge investment in public transport carriers and infrastructure, a common transport authority for rail, road and other mass transport systems, rational land use policies, higher taxes on private transport with revenues flowing to public transport, greater competition in management, effective regulation to enforce standards, and active discouragement of private vehicles in city hubs are all eminently feasible and vital for balanced growth of our economy and cities.

It does not cost much. Back of the envelope calculations indicate that about Rs.5000 crore capital investment and annual subsidies of Rs.1000 crore would make vast difference by transforming our bus transport in all the 42 major cities of India. That is equivalent to about 30 km of new metro rail, and ten days' of power subsidy in all states respectively! The unanswered question remains: *Can we summon the political will and professional competence to make our cities livable and prosperous?*

## **II.2. Police**

The way the police function is an index of liberty and rule of law in a democratic society. The rule of law is at the cornerstone of any democracy. The ultimate test of rule of law is the way the criminal justice system enforces law to protect the life and rights of citizens and the police use the coercive power of the State to ensure compliance of law. Rule of law requires that all individuals are subjected to the same laws in the same measure.

*The current scenario* is that the police have two distinct functions, one that relates to society as a whole, and the other that concerns individual citizens. The maintenance of peace and security and protection relates to the first. The prevention of crime and its investigation and punishment, when committed, relates to the second. All these functions are concentrated in a single police force, which has made police functioning

increasingly complicated and highly specialized. Each function requires a degree of training, knowledge base, skill, and sophistication, which are not possible to sustain when many functions are concentrated in the same force. In the absence of specialization, more resources and time are wasted to achieve the same results.

Certain areas of functioning have to be necessarily under political control and monitoring, whereas certain other functions have to be independent of political supervision and are in fact quasi judicial in nature. Since the functions are clubbed in one police force, it is impossible to separate control of one function from another. As a result, politicians have been playing a very prominent and dubious role in influencing crime investigation. This has, on one hand, vitiated the effectiveness of the police and, on the other, vested them with a great deal of extra-legal power. As criminalization of politics and politicization of crime have both become the order of the day, increasingly, criminals have greater and greater influence in governance. The Election Commission has gone on record that more than 700 of the 4,072 legislators in all the States of India have a criminal record.

*Recommendations:*

1. There shall be a police station for every panchayat or group of panchayats comprising a population of about 25,000 and they should be entrusted with functions like traffic regulations, patrolling, controlling offences of a minor nature, prosecution of minor offences, public nuisances, etc., and they shall function under the local government.
2. The local police station shall be co-terminus with the local court.
3. Crime investigation to be separated into a separate independent wing functioning as a quasi-judicial body directly under the control of the judiciary.
4. Crime investigation to be completely and permanently insulated from other branches of policing, with no horizontal transfers from one wing to the other.
5. Riot control, security of State property, security of important citizens and intelligence gathering to still lie with the State level force accountable to the political executive under overall legislative supervision.
6. There should be effective institutional mechanisms to ensure that the local forces are integrated with the State forces.

## **II.3. Instruments of Accountability**

### **II.3.1. Call Centre**

Jamshedpur city government has a call centre operating round-the-clock. It is connected on-line with all various agencies responsible for civic amenities. All complains are instantly transferred to the appropriate agencies and are addressed/ resolved within strict time limits. Already there are complains' monitoring mechanism in operating BMC. The Jamshedpur model could be adopted at ease and citizen satisfaction can be improved significantly.

### **II.3.2. Citizen's Charter**

Introduction of Citizen's charter with penalties for services with suffer no supply constrains will further improve the civic of amenities and enforce greater accountability.

### **II.3.3. Right to Information**

The Right to Information Act, which came into force On October 12<sup>th</sup>, 2005 is a powerful instrument that can now be used to combat bureaucratic red tape, inefficiency and lack of accountability.

## **III. From the Big Family of Civil Services: Indian Bureaucracy**

Indian bureaucracy has two proven qualities: it holds the country together, preventing anarchy and it manages massive, military style operations in times of emergency or distress reasonably well.

We have an impressive administrative infrastructure which can respond well when goals are specific, resources are allocated and accountability is enforced. But civil services performance is less than satisfactory when these conditions are not fulfilled. Exceptional leaders may achieve significant results from time to time, but the civil service structure does not uniformly guarantee satisfactory outcomes.

There are five central causes of sub-optimal performance of civil services.

1. No strong incentives for sustained performance, despite the fierce competition for recruitment. (Most public servants soon reach a low-outcome equilibrium);
2. A highly arbitrary and partisan placement of key officials, with no secure tenure in any office, (though their life-time security is guaranteed);
3. No effort to nurture domain expertise, or induct specialists. (With growing urbanization, the cities are facing extremely complex challenges, and the available pool of talent within government is inadequate to meet those challenges);
4. The procedures and culture are too hierarchy-bound and not focused on delivering outcomes for the citizens. (In such a clerk-centered culture, delays and blame-avoidance are the norm and term-building and task-orientation is the exception);
5. There is no fusion of authority with accountability, thus weakening those who wish to deliver and making obstructors and rabble-rousers powerful.

Indian civil services need to be reformed to be able to address the growing urban challenges. Domain expertise needs to be built up by promoting specialization as well as recruiting laterally. A transparent and effective system of choosing public servants for key offices should be combined with a clear definition of the role, the resources available and the outcomes anticipated. The public official should then have a guaranteed tenure of, say, five years. Once in office, (s)he must be free to restructure the agency/organization and to make choices and decisions (including personnel placements), subject to the law and broad public policy. All monopoly over public office should go and there should be true competition and choice. The system should be built around decision makers, with a complement of support staff to assist in decision making and execution, in place of the hierarchical structures with focus on control, not outcomes.

## IV. Conclusion

The heart of urban governance lies in *self-governance*. Take Shanghai city. The local government controls everything from transport and water supply to policing and the international airport. London city Mayor Livingstone controls all facets of the city including fire services and police. The awesome power and responsibilities of Mayor Giuliani or his successor Bloomberg in New York are well-known. Even in Pakistan, not a day passes without the national papers reporting decisions of the Nazim of a city and his council.

Contrast this with our cities. How many of us know the names of the Mayors of any of our cities? Who in our cities stands for the whole city, instead of a small territory? Which agency really is responsible for the whole city's future? Urban local governments are in many ways the most hospitable institutions to promote reform, because of the specificity of functions, their own resources and budgets, constant public pressure creating demand for improvement and a wide range of departments functioning under the unified control of the elected council/mayor.

But the current situation and reality is that the right hand does not know what the left hand does, this leading to a classical system of alibis, with everybody having power to make our lives miserable and none being accountable.

The July 2005 devastation of Mumbai should serve as a wake-up call for all India. Hence, lead to urban governance reforms.

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