

**LOCAL GOVERNMENT IN
FEDERAL SYSTEMS**

**UNITY IN DIVERSITY
LEARNING FROM EACH OTHER**

Volume 1 : *Building on and Accommodating Diversities*

Volume 2 : *Emerging Issues in Fiscal Federalism*

Volume 3 : *Interaction in Federal Systems*

Volume 5 : *Policy Issues in Federalism: International Perspectives*

UNITY IN DIVERSITY
LEARNING FROM EACH OTHER

VOLUME 4

Local Government in Federal Systems

Edited by

John Kincaid

and

Rupak Chattopadhyay



FORUM OF FEDERATIONS



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Viva Books Private Limited

- 4737/23, Ansari Road, Daryaganj, New Delhi 110 002
E-mail: vivadelhi@vivagroupindia.net, Tel. 42242200
 - Plot No. 76, Service Industries, Shirvane, Sector 1, Nerul,
Navi Mumbai 400 706, E-mail: vivamumbai@vivagroupindia.net
Tel. 27721273, 27721274
 - Jamals Fazal Chambers, 26 Grems Road, Chennai 600 006
E-mail: vivachennai@vivagroupindia.net, Tel. 28290304, 28294241
 - B-103, Jindal Towers, 21/1A/3 Darga Road, Kolkata 700 017
E-mail: vivakolkata@vivagroupindia.net, Tel. 22836381, 22816713
 - 7, Sovereign Park Apts., 56-58, K.R. Road, Basavanagudi, Bangalore 560 004
E-mail: vivabangalore@vivagroupindia.net, Tel. 26607409, 26607410
 - 101-102, Moghal Marc Apartments, 3-4-637 to 641, Narayanguda,
Hyderabad 500 029, E-mail: vivahyderabad@vivagroupindia.net
Tel. 27564481, 27564482
 - Beevi Towers, First Floor, SRM Road, Kaloor, Kochi 682 018, Kerala,
E-mail: vivakochi@vivagroupindia.net, Tel. 0484-2403055, 2403056
- www.vivagroupindia.com

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Preface

Rupak Chattopadhyay

This volume is one of five books that cover the proceedings of the 4th International Conference on Federalism. This conference, entitled *Unity in Diversity: Learning from Each Other*, was held in New Delhi between 5 and 7 November 2007, and coincided with the Diamond Jubilee of India's independence in 1947. This was the fourth in a series of major international conferences organized in partnership between host governments and the Forum of Federations. The earlier conferences were held in Canada in 1999, Switzerland in 2002, and Belgium in 2005.

The Forum of Federations was established by the Government of Canada as the secretariat for the 1st International Conference on Federalism held at Mont Tremblant in October 1999. This event provided the first opportunity for experts and practitioners from around the world to ponder the relevance of *Federalism in an Age of Globalization*. Following the Mont Tremblant conference, the Swiss government invited the second conference to be held in Switzerland. A joint initiative by the federal and cantonal authorities, the 2nd International Conference was held in August 2002 at St. Gallen under the title *Federalism in a Changing World: Learning from Each Other*. At the conclusion of the Swiss event, the Belgian prime minister invited the next conference to Brussels. This third conference was held in March 2005 in Brussels under the title *Federalism: Turning Diversity into Harmony, Sharing Best Practices*. The conference was timed to coincide with a series of events aiming to celebrate the 175th anniversary of Belgium's independence, and the 25th anniversary of federalism in the country.

India announced its intention to host the 4th International Conference on Federalism at the conference in Brussels. The Inter-State Council Secretariat (ISCS), Government of India, was identified as the nodal agency to organize the 2007 conference in India, and the Forum of Federations as the permanent secretariat to the International Conferences on Federalism was invited to cooperate with the ISCS. The objective of the 4th International Conference on Federalism was to promote dialogue on the renewal and development of federalism and greater cooperation among practitioners in pursuit of better governance.

The 4th International Conference on Federalism was a two-and-a-half-day event based around four broad themes and twelve subthemes. Each theme was developed by a panel of Indian and international experts. Thematic papers were peer reviewed at a pre-conference held from 21 to 23 February 2007, before being published as background reading for the conference. These papers were not presented at the conference but were made available to practitioners sufficiently in advance to serve as input for informed discussions. These papers influenced the selection of issues and case studies for discussions at the conference work sessions. The rationale and relevance of the themes selected is discussed in the introductory essay by the co-editors of the post-conference publications, Ronald Watts and John Kincaid. The pieces published as part of this series include the revised background papers—revised in the light of discussions at the conference—and analytical summaries of the proceedings from the work sessions. The analytical summaries represent the authors' analysis of discussions at the work sessions that they participated in. Each volume is organized by theme—*Building on and Accommodating Diversities*, *Emerging Issues in Fiscal Federalism*, *Interaction in Federal Systems*, and *Local Government in Federal Systems*.

The organization and structure of the 4th International Conference was inspired by the example of International Conference in St. Gallen. The triennial conferences provide a unique forum where practitioners of federalism, academics, and members of NGOs are able to interact and learn from one another. The thematic work sessions are the core events of these conferences. Unlike inter-

governmental conferences, senior officials and ministers present did not present existing government positions from prepared texts. Rather, senior practitioners were expected to participate actively in the interactive work sessions, where colleagues from around the world were exposed to diverse points of view and new insights arising from the dialogue. Such a format allowed for maximum participation, while providing an opportunity for peers to draw inspiration from each others' experiences. The work sessions fed their conclusions to theme sessions on each day of the conference. The working days of the conference were capped by plenary sessions where participating heads of state and senior ministers were invited to share their observations on issues of federalism.

The integration of young professionals into the program of the main conference provided an additional international facet. Fifty young professionals from India and other countries were paired up to produce policy-relevant pieces on the conference themes and present their perspectives at the work sessions. The Forum intends to publish a selection of these papers in due course.

Because these conferences are designed to address the needs of all who share an interest in the practice of federalism, these volumes are meant to be accessible even to "non-experts". The volumes are meant to provide surveys of the themes and subthemes. However, each volume contains a select bibliography of suggested readings for anyone interested in pursuing any of the topics in greater depth.

The publication of these volumes constitutes the final step in a process that first began three years ago and would not have been possible without the support of a great many people. The conference would not have been possible without the support and generosity of the Government of India, particularly the Prime Minister's Office and the Ministry of Home Affairs. The Honourable Prithviraj Chavan, Minister of State, Prime Minister's Office, at the initiative of Prime Minister Manmohan Singh, invited the Forum of Federations to partner with the Indian Government in organizing the 4th International Conference on Federalism in New Delhi. The Honourable Shivraj V. Patil, the Home Minister of India, served as host and took great personal interest in ensuring the success of the conference.

Credit is due to the staff of the Inter-State Council Secretariat, the Forum's partner and co-organizer, who, against all odds, successfully organized the largest International Conference on Federalism to date with 1300 participants from more than 100 countries. The Forum could not have hoped for a better partner. In particular, we offer our thanks to Amitabha Pande and S. Lakshminarayanan, who, as Chairs of the Organizing Committee, oversaw management of the whole process. Thanks are also due to the Additional Secretaries, past and present—Ravi Dhingra, S.D. Sharma, Atul Gupta, and Veena Upadhyaya for their diligence and support. On the administrative side, Deputy Secretaries Sudhir Kumar and Amaresh Singh were instrumental in keeping the organizational machinery running and in good order. Raoul Blindenbacher, then Vice President of the Forum, based on his experience of St. Gallen, contributed immensely to the development of the conference design. The Young Professionals Programme was ably coordinated by Assefa Fiseha, Andrea Iff, Paul Morton, and Rekha Saxena. Arif Ali Khan, in addition to the many other hats he wore during the conference, and Libby Johnston helped with the copy-editing of the analytical summaries. Rod MacDonnell deserves special thanks for managing the entire publications process.

Following the tradition of past conferences, we had initially planned on producing a single volume post-conference publication. Significantly, it was George Anderson who first suggested a series of more accessible publications by theme, an idea embraced enthusiastically by Amitabha Pande and the Inter-State Council. Last but not the least, gratitude is due to both the authors of the papers and all those who actively participated in the conference, without whose inputs these volumes would have been difficult to produce.

Introduction

Ronald L. Watts
John Kincaid

The overall theme of the 4th International Conference on Federalism held in New Delhi, 5-7 November 2007, was “Unity in Diversity: Learning from Each Other”. Internationally, this topic was a highly relevant focus because in the contemporary world, federalism as a political idea has become increasingly important as a way of peacefully reconciling unity and diversity within political systems. Diversity is seen here primarily as qualitative collective characteristics based on language, religion, ethnicity, nationality, culture, and race rather than gender, class, status, occupation, and the like (although the latter are certainly not unimportant). Use of the word “in” purposely signifies that unity can be grounded in diversity, that diversity can give rise to unity, that unity need not dissolve diversity into homogeneity, and that there is no necessary contradiction between unity and diversity. Indirectly, the title also signifies the diversity of federal systems in today’s world and the need for citizens and public officials in those systems, as well as in emergent and would-be federations, to learn from each other in both practical and theoretical ways.

Federalism has grown in importance, in part because modern developments in transportation, social communications, technology, industrial organization, globalization and knowledge-based societies have all contributed to simultaneous needs for both larger and smaller political units. Thus, there have developed two powerful, thoroughly interdependent, yet distinct and often actually

opposed motives for federating. One is the desire to build dynamic, efficient, and modern nation states (e.g. India and the United States) or supernational political systems (e.g. the European Union) for economic progress, for security, and for influence in the world arena. The other is the desire to express distinctive identities through smaller, directly accountable self-governing political units able to give expression to historical, social, linguistic or cultural diversity.

In such a context, federal solutions have had an increasingly widespread appeal. They enable a combination of (a) shared governance in a large political unit for certain common purposes, and (b) autonomous self-governance for the various diverse groups in smaller constituent units of government directly and democratically responsible to their own electorates. By combining elements of shared rule in larger units and self-rule in smaller regional units, federal political systems provide the closest institutional approximation to the complex multicultural and multidimensional economic, social and political reality of the contemporary world.

As a result, there are in the world today some two dozen countries that are federal in their character, claim to be federal, or exhibit the characteristics typical of federations. Although federal institutions are not applicable to all situations, nearly 40 per cent of the world's population encompassing a total of some 510 federated political communities (e.g. cantons, provinces, or states) now live in countries that can be considered or claim to be federations, many of which are multicultural or even multinational in their composition. Furthermore, a number of countries such as Belgium, Ethiopia, Italy, South Africa, and Spain, among others, appear to be forging new and innovative variants of traditional federal forms.

Another notable contemporary trend in response to changing world conditions has been the evolving character of the existing and older federations. Many are undertaking reforms and modifications of institutional arrangements and processes in order to adapt to these new conditions. It is these developments that led to the formation of the International Forum of Federations in 1998 as a way of facilitating the exchange of experience among practitioners, politicians, civil servants and academics in federations. A key feature of the operation of the Forum of Federations has been

the holding of large triennial international conferences on federalism. The one held in New Delhi in November 2007 was the fourth.

Indeed, it was particularly appropriate that the 4th International Conference on federalism provided an opportunity for participants from other federations, as well as many other countries, to learn from the experience of the Indian Union in uniting its rich diversity of 1.1 billion people within an embracing unity. Among federations, the magnitude of India's diversity and its achievement of an encompassing unity stand out, although partition into the Dominion of India and the Dominion of Pakistan, along with some population exchanges, were required at the time of independence in 1947, and certain intergroup conflicts have persisted since independence. There are more linguistic variations in India than in any other federation on the globe. But also there is an enormous range of other forms of diversity. Four of the world's major religions—Hinduism, Buddhism, Jainism and Sikhism—originated on the Indian subcontinent, and Judaism, Zoroastrianism, Christianity, and Islam arrived there long ago. Indeed, Pandit Jawaharlal Nehru's *Discovery of India* (1946) described in lyrical terms the diversity of India from north to south and east to west. Hence, the appropriateness of the holding of the 4th International Conference in India.

Within the general focus of reconciling unity and diversity, the 4th International Conference was based on four broad themes; within each of these, there were three subthemes. These themes and subthemes were developed by a panel made half of Indian and half of international experts. The four theme and the twelve subtheme papers were prepared by expert scholars and were distributed in advance as background reading for the participants in the conference. These papers provided a framework for identifying specific cases and issues that were considered and discussed at the working sessions of the conference.

The four broad themes identified for the 4th International Conference on Federalism were: (1) building on and accommodating diversities, (2) emerging issues in fiscal federalism, (3) interaction within federal systems, and (4) local governments and metropolitan regions in federal systems.

The first theme, *Building on and Accommodating Diversities*, was chosen as the lead-off theme because of the widespread use of federalism throughout the world to accommodate diversities and the variety of arrangements that have been developed for doing this in different federations (e.g. Belgium, India, Nigeria, and Switzerland). The theme paper draws attention to the extent to which diversity is not to be viewed simply as a problem but as an asset to be built upon in the process of nation-building. This paper also makes the very important point that diversity can enrich a polity. Subtheme paper “Nation Building and Diversity” deals with the various forms of diversity that have to be accommodated in the process of nation-building. Nation-building is a necessity when the social milieu is diverse, and the various constituent groups need both identity and voice within the nation state rather than marginalization or homogenization. Subtheme paper “Autonomy and Diversity” relates to the use of autonomy by the constituent orders of government to accommodate the distinctive interests of diverse groups. The paper attempts to elucidate the concept of autonomy, suggest which groups can legitimately and realistically claim institutional autonomy, and examine the pros and cons of various territorial and personal accommodations of diversity. Subtheme paper “Managing Conflicts of Diversity”, deals with the various ways in which conflict among diverse groups has been moderated in federations, including lessons for mature federations drawn from the experience and innovations of newer federations. The author emphasizes that there are various good and effective conflict-management devices even while there are no universally applicable best practices. The preceding four papers constitute Volume I of four published volumes of the conference papers.

The second broad theme was *Emerging Issues in Fiscal Federalism*. This theme was considered to be of particular importance because the financial arrangements within a federation have significant impact on its operation. These arrangements can be especially salient and volatile in federations characterized by high levels of diversity wherein various groups are highly sensitive to who pays what and who gets what out of any given system of fiscal federalism. Here too, three subthemes were identified. The theme paper

examines the appropriate allocation of revenue and expenditure responsibilities, an important issue in all federations. The authors attempt to base the analysis on neutral principles derived from empirical research in political economy. Subtheme paper “Assignment Systems in Federations” examines the problems of establishing a harmonized VAT (value added tax)—which is a very widely used tax internationally—in a federal system, especially because of the difficulty of designing a destination-based subnational VAT. Subtheme paper “Managing Fiscal Conflicts” includes lessons from the experience in different federations. Fiscal conflicts, which are a regular feature of federal systems, can arise intergovernmentally between the national, regional, and/or local governments or interjurisdictionally between constituent governments or between local governments themselves. The existence of viable and long-lasting federations (e.g. Australia, Canada, Germany, Switzerland, and the United States) clearly indicates that such conflicts can be managed pacifically, but the existence of societal diversity and cultural cleavages within a federation can certainly make conflict management challenging. Subtheme paper “Fiscal Federalism and Regional Equity” includes appropriate corrective objectives and methods, especially in light of the mismatches between the resource-raising capacities and expenditure responsibilities of the various constituent governments of a federation. Issues associated with such mismatches can be heightened in federations characterized by diversity because various groups are desirous of remaining within various territorial units rather than being mobile across territorial jurisdictions. The preceding four papers make up Volume II of four published volumes of the conference papers.

The third overall theme was *Interaction in Federal Systems*. Given the unavailability of overlaps in the responsibilities of governments within a federation, as well as the existence of culturally diverse constituent political communities in most federations, intergovernmental interaction has been an important element in all federations. The authors chose the term “interaction” in order to emphasize the breadth of the topic and the blurring that has occurred between government institutions and the many private and non-profit organizations in the market and in civil society that engage

governments. Three subthemes were selected for this discussion, too. Subtheme paper “Anticipating and Managing Tension and Conflicts” examines judicial, legislative, and executive approaches to managing conflicts that go beyond those associated with fiscal federalism. The author focuses particularly on financial equity across constituent units, threats of terrorism, and the ownership and taxation of natural resources. Subtheme paper “Techniques, Structures, and Processes” examines principally relations between federal or national governments and their constituent units. The author looks at both intra-state and inter-state interactions and seeks to uncover common features and converging trends of intergovernmental relations across federal countries. Subtheme paper “Accountability and Transparency” focuses on problems of corruption and on the importance of ensuring accountability and transparency in intergovernmental interactions. The preceding four papers constitute Volume III of four published volumes of the conference papers.

The fourth theme, *Local Government in Federal Systems*, was not a focus in any of the three previous international conferences. In all federations in recent years, there has been a growing awareness of the importance of local governments and also metropolitan regions. The fourth theme overview paper emphasizes local government’s closeness to civil society and its role in enabling disadvantaged groups, including women, to participate in governance. The authors also look at the differential constitutional arrangements for local governments in federal countries and highlight the complex challenges of governing megacities. The three subthemes include the following. Subtheme “Enhancement of Democracy through Empowerment of Disadvantaged Groups” focuses on enhancing democracy through the empowerment of disadvantaged groups and civil society in local government arenas. The author argues that there is a need to establish inclusive local democratic institutions by strengthening civil-society organizations locally, empowering women and disadvantaged groups, making local decision-making more participatory, and making participatory decision-making itself more inclusive. Subtheme papers “The Functioning of Local Governments and their Relationship with Upper Levels of Government” and “The Functioning of Local Government in

Federal Systems: Perspectives from India” focuses primarily on local government in India and critically examines a number of issues involving India’s local self-governments, including the utility of using the term “local self-government” as opposed simply to “local government”. Subtheme paper “Governance of Megacities in Federal Orders” examines the challenges and options for governing metropolitan regions and megacities, namely, cities of more than 10 million inhabitants. Given the growth of the number of megacities around the world, the importance of these regions as drivers of the economy and their position and relation to other governments and to states within federal systems make them somewhat anomalous in relation to traditional federal structures. According to the United Nations, 2007 was the first year in human history that the world’s urban population exceeded the rural population, a trend which indicates the importance of including an examination of the role of megacities within federations. The preceding four papers make up Volume IV of four published volumes of the conference papers.

These four sets of significant issues in contemporary federations are of interest to those working in all federations, old and new. Each set is related to the overall theme of the conference, the reconciling of diversity and unity. The theme and subtheme papers, revised to take account of discussions at the conference, and the analytical summaries of the workshop discussions, are now published in the form of four post-conference volumes, one for each theme. These issues discussed at the conference involve problems common to many federations. There is, therefore, a genuine value to those working in each federation, whether old or new, in learning from the experience of federations elsewhere. Of course, each federation reflects the particular circumstances and conditions that produce it; therefore, there is no pure ideal model of federalism that is applicable everywhere. Nevertheless, there are useful lessons to be learned from the discussions of the themes that served as the key foci for the 4th International Conference on Federalism.

**THEME AND
SUBTHEME PAPERS**

Theme Paper

Local Government in Federal Systems

Horst Risse
Caroline Andrew
Dalbir Singh
Suresh Keswani

Abstract

The role of local government in federal systems can be looked at from a great variety of viewpoints. For one, local government is the order of government that is nearest to civil society. Thus, local government can use the voluntary sector, including non-governmental organizations (NGOs), better than any other order of government so as to improve its services. A strong role played by the voluntary sector can help to organize a participatory bottom-up approach in local governance. Disadvantaged groups, including women, may benefit therefrom. Local diversity has to be reflected in the composition of local authorities. In its organizational settings, a federation has to leave sufficient room and provide the necessary resources for local governments to work as true units of self-government. Second, this leads to the question how the relationship between the larger orders of government and local government should be organized in a federation. Some federations regard local authorities merely as parts of the constituent states; thus, they recognize only two orders of government: national and state (or provincial). Other federations consider them as a third order of the federal structure. This is not merely a question of legal theory; it may well be a problem of the distribution

of powers and resources. Third, within the organization of a federal system, metropolitan areas and megacities are of particular concern. Here, even a four-tier structure of government can develop. The governance of a megacity is extremely complex and so is the network of actors necessarily involved in its governance.

1. Introduction

The role of local government is crucial for federal systems. First, local government is a key interface between civil society and the state. Democracy begins here, and if democratic structures are not established locally, they will be missed elsewhere too. Then, local government has to be integrated into the complex structure of a federal system. Its relationship to the larger regional and national orders of government has to be defined, and it is necessary to establish rules and procedures for its participation in the political decision-making process. A third set of problems arises from the growing trend of urbanization. Megacities, where local government means responsibility for 10 or 20 million citizens, will gain ever more importance globally in the decades to come. Megacity governance in federal systems will be another issue federations will have to cope with in the future.

1.1 *Voluntary Sector, Civil Society, and the Enhancement of Democracy through Strong Local Government*

Highly centralized forms of governance have led to a growing realization in many countries that there is a need to decentralize power by creating participatory and responsive local self-governments that emphasize direct democracy and promotion of the role of stakeholders in the development process.

The voluntary sector has also emerged as an important player in strengthening people's institutions. In fact, non-governmental organizations (NGOs) are being increasingly promoted as the panacea for correcting all the inequities and problems encountered by governments in the developing regions of Africa, Asia, and Latin

America and for pursuing rapid economic growth. Economic transition in many countries in these regions has been characterized by a withdrawal of the government from many sectors of the society, thus fostering a civil society sandwiched between government and market, which embraces many types of voluntary organizations regarded as NGOs. The growth of these voluntary organizations is believed to promote citizen involvement and linkages between the political culture and social capital necessary to sustain democracy.

Many governments, impacted by structural adjustment and economic uncertainties, see NGOs as low-cost providers of services they themselves are unable or unwilling to provide their citizens. Even in China and Vietnam, international NGOs work through government institutions to provide services for the people, such as micro-credit schemes for the rural poor in Vietnam and Bangladesh and services for the disabled in China. Further, rapid economic change often redirects or undermines earlier systems of social support, thus increasing the need for additional services for women-headed households and urban slum-dwellers.

Today, the Government of India sees NGOs as a major component of its poverty-alleviation strategy. International development agencies and the global network of international NGOs encourage this emphasis because they believe NGOs are closer to the people and, therefore, more able than an elite patrimonial bureaucracy to determine the types of services needed by people. They argue that interaction with the recipients also fosters participation in solving local problems, which, in turn, empowers local leaders and enhances prospects for local decision-making.

Citizens groups often ask difficult questions, holding governments and corporations to account for their actions and demanding that institutions behave in ways that promote the public good. Civil society groups have succeeded in expanding their domain of policy-making and implementation. Civil society has established its presence in developing a variety of services such as health care, literacy, low-cost housing, natural-resources management, capacity building for income generation, and empowerment of disadvantaged and exploited sections of society.

Various views on civil society converge on one issue. Poverty is

not just the lack of material goods. It is also distance from decision-making and a sense of being devalued that manifests itself as apathy, anger, and a weakening of the civic culture. The role of civil society was particularly recognized by the United Nations' Conference on Development and Environment in 1992. Thereafter, the active presence of civil society continued at all important global international forums, such as the Cairo Population Conference of 1994, the Copenhagen World Summit on Social Development in 1995, and the Beijing Conference on Women 1995, among many others.

NGOs must build on these and other models and work together to increase their own accountability without losing flexibility or their genuine contact with the grassroots. NGOs must raise awareness of people's rights, promote experiential learning, adopt a multidimensional strategic approach, build up stakeholders, promote public education, and engage in policy advocacy through sustained research and intervention at various levels of the demand and supply segments of society.

The new institutional arrangements are geared to a participatory bottom-up approach in which communities exercise control over programme activities at each stage, and government and non-governmental agencies play catalyzing, facilitating, and coordinating roles. The comparative advantage offered by the voluntary sector is that it is much closer to the poorer and the more disadvantaged sections of society; is more motivated and altruistic in its behaviour; can easily stimulate and mobilize community resources; is non-bureaucratic, less formal, and more flexible in its structure and operations; has a multi-sectoral framework; and exhibits a greater potential for innovation.

Modern civil society has issued two declarations of independence: one from the state and the other from the market. Civil society consciously sees itself as a countervailing force against totalitarian tendencies in the state and the market. Such tendencies can produce unacceptable environmental, economic, political, cultural, social, human, and spiritual problems in society.

Civil society needs to advocate for concrete societal reform by institutionalizing its cultural advocacy in the domain of economics and politics. To do this, civil society has to interface with state and

market. The interface between these three forces of society can therefore be viewed as a terrain of opportunity or a terrain of cooptation.

Some of the elements that are necessary to make the relationship between civil society and government work are mutual respect for differences of opinion, parity in negotiations, clear mechanisms of mutual support and accountability, enabling communication protocols, principles of unity and common agenda, and finally a covenant-laying process of critical engagement.

If nations are to realize their full potential and accomplish inclusive growth, the equal participation of vulnerable segments of population in society must be ensured in order to enable the most marginalized citizens' greater access to and control over the resources and benefits of development, so as to promote social justice.

Discrimination against women remains entrenched in many regions of the world. Deep-rooted cultural beliefs and traditional practices deprive women of education, health care, and nutrition. Crime against women is widespread and includes rape, violent abuse, infanticide, child abuse, and ill-treatment of widows. Women are critically underrepresented in all levels of the government and elective offices.

After centuries of subjugation, women must be emancipated and empowered by promoting an inclusive strategy for creating social coalitions in support of parity for women in politics. The quest for gender justice has proved to be the catalyst for revitalizing democracy. Four of the main processes that could lead to women's empowerment are changes in women's

- mobility and social interaction,
- labour patterns,
- access to and control over resources, and
- control over decision-making.

Women should be encouraged to bring their vision and leadership, knowledge and skills, and views and aspirations into the development agenda from the grassroots to the international level. Emphasis must also be given to advocacy of gender-responsive legislation and constitutional revisions to increase women's oppor-

tunities to influence the direction of society and to remove obstacles to women's access to power.

True democracy emphasizes decentralization of governance and devolution of power. Government officials who are accustomed to the top-down model need to be sensitized to the new realities of local self-governance. NGOs have played a very effective role in making people more conscious of their roles and rights. Through processes like micro-planning, special emphasis on weaker sections of the population, participatory research studies and advocacy, people's participation has been greatly enhanced in intervened areas. However, sustained and more aggressive interventions are needed to deepen democratic local self-governance and enhance transparency. Research and policy advocacy has to be promoted on an extensive and sustained basis to improve different aspects of local self-governance. Creative individual and collaborative efforts by civil society and governments to strengthen local self-governance need to be scaled up.

How does such decentralization fit into the discourse on federalism? Clearly the 1993 constitutional amendments on local government transformed India's two-tier federation into one that is supposed to be three-tiered. However, it is one thing to change the law; it is another to transform actual practice. So far, there has been little evidence that the states recognize that local governments are intended to be no longer their creatures, wholly subordinate to state policies. Instead, they are expected to be part of a coordinate system in which each of the three orders of government is responsible to the constitution.

It may be possible for the Union government to bypass state governments and come to the aid of local authorities. This has been done in the United States. But in Canada, a parliamentary federation like India, the attempt by Prime Minister, Pierre Elliott Trudeau, to do so in the 1970s resulted in failure.

Local governments in both urban and rural India, although constitutionally mandated, have a very weak existence in their own right. They are controlled by state governments, which have retained numerous powers. Among them is the power to make rules, to make changes in the content of schedules, to appoint officials,

to dismiss the sarpanch, to cancel resolutions or decisions of panchayats, to dissolve panchayats, and to inspect records and works. Local governments are hence subservient to state government. They therefore violate the basic federal principle that no order of government should be wholly subordinate to another. Further, local governments have no power to legislate, nor have they the capacity to approach the courts to rule upon disputes over the respective constitutional powers of the second and third orders of government. In fact, there is no case law on local government in India as there is in the United States. Although local governments have a constitutional status whose basic features, such as the four innovations mentioned earlier, are not amendable by the state governments, they are unable to function as units of self-government. They are dependent on state governments, which have conceded only political decentralization and not the fiscal or the administrative decentralization of powers and functions to localities.

1.2 The Functioning of Local Governments and their Relationship with Regional and National Governments

Local self-rule is the oldest form of public rule in the history of humanity. Rural settlements, villages, and even nomadic peoples found forms to organize their community life. These can be understood as forms of local (or communal) self-rule. There is a wide variety of types, from the role of a traditional leader in an African village to an Indian panchayat, a classical Greek polis in ancient times (which many consider as the cradle of democracy), and the management of a modern mega-city with more inhabitants than some medium-sized nations. Most local bodies are multi-purpose municipalities, while others have a specific task (e.g. school districts). But what they all have in common is responsibility for the most immediate needs of their citizens without any other body between them and the individual.

As soon as modern statehood developed, local government as the organizational form of self-rule got a competitor: the state, be it a monarchy, a republic, or whatever form of higher rule claimed

sovereignty over the entire territory and its population. From that moment on, the question came up as to how to solve the inevitable conflict between the ideas of local self-government and the sovereign power of the state. The problem of the relationship between local government and the larger orders of government became part of the permanent public agenda.

This problem is common to almost all countries because local self-government—at least as an idea—is universally accepted. Only city states like Singapore or Monaco are possible exceptions. However, in centralized states, this is only a question of a two-layer government. Federal states are more complicated. They have three orders—local, state/provincial, and the federal—which have to work together. If the federation is also a member of a supra-national organization (e.g. the European Union), an even more complex multi-layer structure prevails.

The impact of such complex structures on local government can be massive. Local government may become the object of two standard-setting authorities. The federal as well as the state government may define tasks and set frameworks for the activities of local government. If we consider the financial aspect, two larger orders of government may be an advantage as local authorities may profit from two different sources of support. However, there is also the risk that disputes between the federal and state governments about which government has responsibility for a certain task or programme may end up generating an unfunded mandate for local government.

As such problems can occur at any time and in any context, it is necessary to establish a procedure or create a forum through which local government can raise its voice vis-à-vis both orders of government. How this can be done is determined by the constitutional setting of a federation.

The older federations do not refer to local government as part of the federal organization (e.g. the United States, Switzerland (until 1999), Canada, and Australia). They consider local government to be a part of the state or provincial order and leave it to the statutory authority of that order. Others, such as Germany and India, recognize and guarantee local self-rule in the federal consti-

tution but without giving local bodies the status of a third order of government, leaving most of the details to the states.

In these cases, the relationship between local governments and the state or provincial government usually poses no structural problem. Because there are direct relations, task determination and standard setting, claims for assistance, and supervision can be handled in a cooperative manner. However, the standing of local government in these processes depends on the framework set by the state. Important items within the state's regulations for local government may include a legal (constitutional) guarantee of local self-rule (including financial autonomy), protection against unfunded mandates, and an effective participation of local government in the task- and standard-setting processes (e.g. in the state legislative procedure). It is equally important to enforce these rules so that there are legally defined limits of state supervision over local government and also legal processes, including access to independent courts.

In systems where the federal state is conceived of as comprising only the federal order and the states or provinces, the former usually has little or no direct relation with local government. The interests, concerns, and needs of the local order are mediated by the states or provinces, which have to act as agents or trustees. Obviously, this construction is somewhat awkward. A trustee should never have a vested interest in the matter at hand. But provincial and local governments do not necessarily have the same interests vis-à-vis the federal government. Local government often claims that the federal government and the constituent states come to an agreement at their expense—the absent third party. Given that local government is excluded from the decision-making process because the federal order refuses direct relations and/or because the constituent states insist on their role as exclusive partners with the federal government while putting their own interests over the interests of their trustee, local government sometimes finds itself in the role of being a victim of disloyalty. Hence, it has to be asked how constituent states can be encouraged to act in good faith when they represent the concerns of local government vis-à-vis the federal government.

A special variation of this problem may occur with respect to

federal grants for programmes administered by local governments. Where direct financial relations between the federal and the local governments are unheard of, federal money for a certain purpose is given to the constituent state even if the respective programme is to be executed by local government. It is then up to the state government to distribute the federal money in an appropriate manner. In this context, it not only has to define the fair share of each of its municipalities but it also has to make sure that the federal grant arrives entirely in the hands of local government where the programme is carried out. Local governments often claim that the states have “sticky fingers” with respect to the federal money the states are supposed to pass on to them.

In federations without direct federal-local relations, the place and role of local governments have become critical with respect to the governance of metropolitan regions. Where local governments have to deal with the challenges of massive conurbations, they often want to become partners at the federal negotiation table. The mayor of Toronto, a conurbation with a budget larger than that of most of the Canadian provinces, might argue that it is inappropriate that he or she is not considered a partner by the Canadian government while the premier of the small province of Prince Edward Island has his or her place at the intergovernmental bargaining table. Behind this insistence at being “at the table” is a quest not only for money and power but also for respect. As these urban governments play a vital role in the social and economic development of the country as a whole, they need more than appropriate funds and powers to meet their increasing responsibilities. They also want to be taken seriously as partners who can speak with their own voice.

Some of the younger federations do not only guarantee local government in their constitutions; they also recognize it as a third order of the federal structure (e.g. Brazil, Mexico, and South Africa). This makes it a lot easier to establish direct relations between local and federal officials, including the flow of federal money to the local authorities. Local government can become a part of intergovernmental relations. It may even get a defined role in the federal legislative process. However, the constitutional status itself does not guarantee that the municipalities deliver better services to their citizens.

Though such a three-order construction within the constitutional setting seems to provide for a less stressful position for local government, some detrimental effects have to be discussed. None of the constitutions providing for a three-order structure goes so far as to create a “third chamber” through which the localities can exercise influence on national legislation. The reason for that may well be that the integration of such a municipal chamber into the legislative procedure would inevitably add to the complexity of the decision-making process. Furthermore, it would be difficult to determine which municipalities should gain such status. If there are procedures or bodies foreseen as forums for local government in the federal arena, their power usually is limited to recommendations or acting on an informal basis. Thus, the question of whether the constitutional setting really is more than legal symbolism comes up.

If local government in fact has a strong position in intergovernmental relations, another problem comes up. The federal government may well be tempted to play local government off against the states. It is rather likely that a three-order structure works in favour of the national government. Thus, it seems to be necessary to include special safeguards for the states in such a system, if a centralist structure is to be avoided. Otherwise, there is a risk that the federal government will take decisions together with some local bodies (which usually will be the big cities) without due consideration for the interests of the rest of the country.

However, in practice, the relation between local government and the state/provincial and federal governments is determined not only by the constitutional setting. The ways in which local government lobbying is organized are equally important. A strong and qualified local government association is needed to represent views and interests in the state and national arenas. Inside local government associations, the problem will inevitably come up that the positions of metropolitan and rural areas, or small and large communities, are not necessarily alike. Party politics may be involved too. This requires a carefully tailored lead association or, if this is not expedient, perhaps several organizations where local bodies with special common structures and interests work together.

1.3 *The Governance of Metropolitan Areas, including Megacities, in Federal Systems*

Metropolitan areas are important because of their role as drivers of national economies. At the same time, metropolitan areas demonstrate the growing extent of urban poverty, social polarization, and social exclusion. These social conditions raise questions about social and political stability and the long-term sustainability of economic growth. One of the fundamental themes in the work done in the field of metropolitan government research is the present inadequacy of the governance structures. This is the central issue for looking at metropolitan areas in federal systems. What are the specific challenges for the governance of metropolitan areas that arise in federal systems? The answer lies in multiplying complexities that arise because of the additional order of government and the corresponding need for coordination.

These problems arise in particular with regard to megacities, defined as a metropolitan area with a population above 10 million people. Megacities are a relatively recent phenomenon, as the following table indicates.

Growth in Number and Size (in million residents) of Megacities

<i>1950</i>	<i>1975</i>	<i>2001</i>	<i>2015</i>
Number: 1	Number: 5	Number: 17	Number: 21
New York 12.3	Tokyo 19.8	Tokyo 26.5	Tokyo 27.2
	New York 15.9	São Paulo 18.3	Dhaka 22.8
	Shanghai 11.4	Mexico City 18.3	Mumbai 22
	Mexico City 10.7	New York 16.8	São Paulo 21.2
	São Paulo 10.3	Mumbai 16.5	Delhi 20.9
			Mexico City 20.4

From 1950 to 2015, the number of megacities will have grown from 1 to 21. Despite this huge increase, the per cent of the world's population living in megacities still remains small. In 2000, it was estimated that 3.7 per cent of the world's population lived in megacities, and it is predicted that this will rise to 4.7 per cent by 2015.

The development of megacities is clearly linked, at the present time, to urbanization in the southern hemisphere.

Decentralization of responsibilities, resources, and freedom to metropolitan areas is happening in many countries, and this needs to be encouraged. These processes must take place in a coordinated way; decentralization of responsibilities without resources does not work, and decentralization of responsibilities and resources is not effective without increased freedom and autonomy for local governments. Decentralization should include planning and decision-making and not merely implementation. The planning needs to be strategic planning rather than only detailed land-use planning.

Complexity is clearly the characteristic of the governance of metropolitan areas. The national government has interests and policy concerns in relation to metropolitan areas often stemming from the role that metropolitan areas play in terms of the country's economic development. State governments are involved because of their role in areas of service delivery, including social services and health care. In addition, there are a myriad of local municipal governments, as well as a large number of special-purpose local bodies. This metropolitan structure therefore requires both horizontal and vertical coordination among the players, and the combination of great needs and huge numbers of bodies makes for a qualitatively different experience of urban governance. There are often agencies of a variety of kinds at the regional or metropolitan level, therefore involving at least four levels of the state and thus creating, at least *de facto*, a four-tiered structure of government. In addition, governance of the metropolitan area, in particular if it is a megacity, involves a wide variety of organizations, perhaps even multinational organizations, agencies, and networks of civil society, including NGOs and community-based organizations (CBOs).

The necessity of working out cooperative intergovernmental structures and policies is underlined when we look at the major management challenges facing metropolitan areas. These have been described as "improving financial structure and management, providing shelter and basic urban services and infrastructure, improving urban information systems, strengthening the role of the urban

informal sector, and strengthening urban institutional capacities, including the role of municipal governments". Examining each of these, we can see the necessity of involvement and cooperation from national, state, regional, and local governments. The financial question must involve both the national and state governments coming to agreement on what should be the responsibilities of local government and what should be the ways of financing these responsibilities. This cannot be done without agreements between the national and state governments. The provision of shelter and basic urban services and infrastructure again usually involves both the state and national governments, plus non-governmental groups that often play important roles in service delivery. Building good urban information systems requires the shared responsibility of many actors, not only the various orders of government, but also international agencies, international research links, local non-governmental groups, national researchers, and post-secondary education institutions.

Strengthening the role of the urban informal sector involves capacity building in the non-governmental sector, and this capacity-building role needs to involve cooperation between different orders of government. It also involves all levels of the state looking carefully at their regulatory regimes and making sure that their laws, policies, and programmes are not impeding the strengthening of the informal sector. Finally, the strengthening of urban institutional capacities necessarily raises all the issues addressed in Section 2 of the relationship of local governments with the larger orders of government.

Inside a federal system, the sheer weight of a metropolitan area in terms of population and economic power may jeopardize the equilibrium between the various states and local entities. The federal system has to find a balance between the needs of a metropolitan area and the interests of the small (rural) localities. Neither may a metropolis live on the expenses of the rest of the country nor can surrounding communities be allowed to consume the services of a metropolitan area without contributing to payment of the costs. A federal structure may help to ensure that both the metropolitan area and the small local entities are recognized in the public sector and decision-making process. For example, it may be appropriate

to give a metropolitan area the status of a state or province in order to include it in the intergovernmental dialogue. In addition, constituent states formed in the more rural parts of a country may contribute to equilibrium between urban and rural interests.

Even in non-federal countries, there is a growing interest in looking at principles of federalism as a consequence of decentralization and globalization. This has been particularly true for those studying the Chinese case, where *de facto* federalism and quasi-federalism are terms often used to describe current trends. This relates to the point raised at the beginning of this section—the importance of coherent policies of decentralization. Thinking through decentralization policies has increased interest in the principles and practices of federalism as applied to the complex governance of metropolitan areas.

The issue of democratic governance in metropolitan areas involves creating better structures for the participation of the population in the governance processes. This is complicated by the huge numbers of people involved and the dramatic conditions of urban poverty experienced by people living in slums and squatter settlements. Many millions of metropolitan-area residents live in unauthorized settlements in very substandard conditions. Action against poverty remains a principal need.

Local governments should strengthen their connections to NGOs and CBOs. In many instances, there has not been a tradition of horizontal linkages between local government and local civil society; yet creating and/or reinforcing these linkages is an essential step to enhancing the democratic character of metropolitan governance.

Many observers have been particularly interested in the potential impact of an increased role for women in metropolitan governance, both in the ways in which gender equality can be realized in the institutions of metropolitan areas and the impact of the greater inclusion of women on the efficiency and honesty of local institutions. Bringing an increased number of new groups of women into greater political participation enhances the democratic functioning of local institutions and increases the alignment between the needs of the population and the services delivered to them.

In conclusion, it is clear that those interested in the principles of federalism and those interested in the effective and democratic governance of metropolitan areas could profit greatly from increased exchanges. As the earlier table indicates, megacities are becoming an increasingly important form of human settlement and one that requires extremely complex systems of governance. Federal systems can offer important lessons in the governance of complexity.

Subtheme Paper

Enhancement of Democracy through Empowerment of Disadvantaged Groups

Nico Steytler

Abstract

Local government is increasingly seen in federal systems as a key institution for enhancing democracy and advancing development. Because local government is the closest order of government to the people, it also carries a major responsibility of making the political institutions of the state inclusive of disadvantaged groups, including women. In their day-to-day governance, local government institutions may be the most responsive to civil society in general and to disadvantaged groups in particular. Yet, local government does not always achieve the twin goals of democracy and development. Disadvantaged groups are by their very position of marginalization excluded from political decision-making. All too often the very groups that are the target of development are ignored in the decisions aimed at improving their well-being.

An inclusive local government, serving the interests of the entire community it is composed of, is vital for the sustainability of the institution and the enhancement of democracy. To secure an inclusive democratic institution, local governments must meet

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three challenges: (1) empowering disadvantaged groups, including women, by involving them in local governments as elected representatives and managers; (2) making decision-making more participatory; and (3) making participatory decision-making more inclusive also of disadvantaged groups, including women.

This paper commences with an outline of the role that local government plays in enhancing democracy in federal systems. This is followed by identifying key challenges facing local government in performing this function. The last section deals with good, better, and best practices that federal countries can offer in making local government the champion for the inclusion of disadvantaged groups and entrenching an interactive relationship with civil society.

1. Local Government and Democracy

Local self-government plays a critical role in enhancing democracy in federal systems; it brings government closer to the people through both representative and participatory democracy. It allows for the deepening of democracy by facilitating the participation of minorities and disadvantaged groups.

1.1 *The Value of Local Democracy*

By its very nature, local government brings government closer to the people, making the translation of community preferences into responsive policy and programmes more likely. Locally based decisions are often more practical and sustainable in that they acknowledge and accommodate local diversities and historic complexities that may exist within a particular locality. Only with the full cooperation of the local community, then, can development projects succeed.

With decentralized decision-making entrenched, the creative energy of the people can be harnessed. One of the underlying rationales of decentralization is the possibility for innovation and experimentation that it offers subnational units. Innovative policies and practices in one municipality may be modified and replicated in

others as well as adopted by the national government. By allowing space to different entities, not bound by a single one-size-fits-all approach, decentralized decision-making makes it possible for local governments to experiment with innovative ideas.

Participatory democracy can also be more readily put into practice in local arenas, thereby allowing the community to identify more with its political institutions and fostering a sense of ownership over common resources. The proximity of citizens to their elected representatives also makes it easier to call the latter to account.

It is often argued that the devolution of power to local government strengthens multi-party democracy. Where political parties also function locally, it often results in different political parties governing at different levels of government. Decentralized governance can thus temper the domination of a majority in favour of minorities. Where multi-party democracy is thus not restricted to elections, it entrenches the politics of multi-party accommodation.

Democracy at the local level is not only a value in itself; it also is of immense value in deepening multi-party democracy in the other orders of government as well. The degree of democratization of local government affects the prospects of national democratic governance. Pluralist politics must be learned, and local governments make a good school.

Given the importance of local government in enhancing democracy, it should be inclusive of the entire community it represents, including disadvantaged groups.

1.2 *The Inclusive Nature of Local Government*

Local government, conveniently referred to as local authorities or municipalities, has its roots in the political organization of close-knit villages and towns. Even today, the majority of municipalities are still small, village-type authorities, be they in Germany, Switzerland, or India. But increasingly, with urbanization, the majority of the population resides in urban areas often governed by large metropolitan municipalities.

Given their roots in village life, local authorities are premised

on the notion that the municipal institution belongs to the inhabitants of the locality. In some jurisdictions, the municipality, often referred to as a municipal corporation, is thus described as a form of *universitas* of persons; a new entity (the body corporate) is created by law out of a group of persons and then endowed with a distinct juristic personality. Given such a premise, the elected representatives of the municipality, forming the municipal council, are merely the agents of the body corporate comprising the inhabitants. The relationship between the council and the inhabitants is thus described as a trust or fiduciary relationship, and it is not unlike that between a board of directors and the shareholders of a limited liability company.

Given that a municipality is the *universitas* or corporation of the inhabitants of a demarcated locality, any member of that *universitas* has the right to have his or her say in how the *universitas* is governed and how decisions are made that benefit the entire community. He or she participates in the affairs of the municipality and calls representatives to account by virtue of being a member of the *universitas*. Municipal decisions may be questioned, not because a resident's rights or a particular interest has been affected, but because every resident is a member of the *universitas*.

This notion of local government has three important implications. First, the authority and legitimacy of the municipality are derived from its inhabitants, not from the fact that it is appointed or created by any superior order of government. Second, the municipality must represent all its members. Third, as constituent members of the municipality, the inhabitants must take an active part in the governance of the municipality. These implications pose the major challenges to local government in the context of federal systems. The first challenge is whether the municipalities have a sound democratic basis and the ability to make decisions that matter for the inhabitants. The second challenge is whether municipalities are indeed presenting, and working for, all their members. The third challenge is whether the inhabitants can mobilize themselves effectively through civil-society formations in order to be a full partner in governance. The practice of local self-government suggests that these challenges are not always met.

2. Challenges Facing Local Government

Local government is not always self-governing and, frequently, not inclusive of all communities it is comprised of with regard to both its composition and its decision making.

2.1 *Lack of Local Self-Governance*

The local government system is premised on representative and participatory democracy, requiring a bottom-up approach to governance. The converse is often the case, however. Local government policy is often dictated by state/provincial government (and, in some cases, even the federal government). Where municipalities cannot determine the contours of their development (goals as well as performance targets), the very purpose of a democratic local government is undercut, rendering them mere appendages of state/provincial government. Not only does that often result in unfunded mandates, but it also creates a democratic deficit. Development is no longer shaped by the communities themselves. Where there is little scope for local initiative and when local decisions are readily overridden by superior orders of government, the interest in local politics and participation in local elections inevitably declines. If major decisions are made elsewhere, there is *a fortiori* little scope for public participation on those decisions. Where local authorities are, then, mainly concerned with trivial decisions, low voter turnout, evident in many countries, is inevitable.

2.2 *Lack of Inclusive Local Government*

Local government is frequently not inclusive in terms of political representation or decision-making, resulting in policies and actions that often do not address the needs of disadvantaged groups, including women.

It is well documented that, in general, women in both the North and the South are under-represented in municipal councils, are infrequently elected to civil leadership positions, and seldom occupy management positions in municipalities. Overall, less than 20 per cent of councillors are women (the exceptions are dealt with

later), showing great variation between countries and continents. Furthermore, when women enter local politics, they do not stay long in politics, often as a result of having to balance the competing demands of home and public life.

In many urban centres, the divide between the haves and the have-nots is stark. The urban poor, often living on the periphery of the cities, do not always have access to the basic services. Their voices are not heard on the need for access to housing, water, fuel, transport, and security. It is said that, whatever its broader structural causes, poverty is always experienced locally. Typically, it is also women who bear the brunt of urban and rural poverty. Women, more than men, deal with the basic services such as water, fuel, sanitation, primary health care, waste disposal, and transport. Illiteracy or poor education exacerbates the difficulties of access to municipal services. The problem is compounded by the growth of very large metropolitan areas. To cope with the management of these areas, equally large local authorities are established. The result is that the distance between the municipal authorities and the inhabitants increases, and it is the poor and disadvantaged communities living on the periphery that experience the lack of proximity of local government the most.

Another disadvantaged group that local governments must include are indigenous populations in countries as diverse as Mexico, Canada, Australia, and the United States. After decades of marginalization, the indigenous residents of Chiapas, Mexico, staged an armed rebellion in 1994. One of their key demands was the right to develop municipal governments where indigenous communities formed the majority of the population. In Canada, nearly half of Aboriginal Peoples (or First Nations) live in urban areas. Not only have these peoples suffered from a lack of political representation, but they have also been marginalized in terms of service delivery. In a study of eight municipal councils located in areas with a high indigenous population (10,000 or more), only 6 of the 36 elected officials were Aboriginal. As of 2005, only one municipality, Winnipeg, had established a policy endorsing partnerships with Aboriginal leaders and organizations to address and accommodate urban Aboriginal needs.

The exclusion of disadvantaged groups from policy attention is a further manifestation of some municipalities becoming inwardly focused—vehicles for self-serving elites—rather than being community-centred and development-directed. The ultimate form of a self-serving institution is corruption in its various forms. Corruption and elitism, even if they exist only as perceptions, are a real threat to an effective and democratic local government as participation in elections and other processes decreases where the image of politicians and institutions is poor. Becoming inwardly focused is often the product of poor leadership; state institutions are not seen or used as vehicles to advance the community.

2.3 Lack of Civil-Society Structures

Within a democratic form of government, citizens act most effectively through their civil-society formations, be they political parties, social movements, faith-based organizations, or other non-governmental organizations. While strong civil-society structures are most often encountered in rural areas, the millions of poor people living in the impersonal if not hostile environment of large metropolitan conurbations are often ineffectively organized in civil-society formations, further exacerbating their marginal status.

3. Strategies for Empowering Disadvantaged Communities

In most federal countries with a written constitution and a bill of rights, citizens, including members of disadvantaged groups, can rely on an anti-discrimination clause to assert equal political rights and access to state services. Impermissible grounds of discrimination usually include race, ethnic origin, culture, language, religion, gender, disability, and, increasingly, sexual orientation. Such formal guarantees are often not in and of themselves enough to address issues of marginalization of disadvantaged groups, but local government may do much to give effect to the ideal of equality. An inclusive local government is likely to serve the interests and honour the rights of all its inhabitants. Involving women in planning and

managing basic services is likely to improve the services by making them more socially and culturally responsive. It has been shown that providing more frequent and safer public transport has improved women's employment opportunities. Whereas unsafe cities restrict access to services and economic mobility, local governments can plan for women's security both domestically and in public places. The same applies to persons with physical disabilities. For example, wheelchair access to public buildings and transport makes services and job opportunities more accessible to this disadvantaged group.

Although local government cannot by itself address the many deprivations that make up poverty, the focus and manner of service delivery can reduce poverty. Many deprivations can be reduced through solutions developed and implemented locally in partnership with the concerned communities.

Strategies to empower disadvantaged groups run along two tracks. The first is concerned with making the institutions of local government—both the elected representatives and the administrations—more inclusive. The second track seeks to ensure that the decision-making processes are participatory of the community, including disadvantaged groups.

3.1 Making the Institutions of Local Government More Inclusive

The first challenge is how disadvantaged groups, including women, can be empowered by involving them in local government as elected representatives and managers. How can the relationship between disadvantaged groups and local government be reformed to ensure a better dialogue that may result in a more equitable distribution of resources? The most visible priority has been getting more women and members of minority groups elected as representatives.

3.1.1 Better Representation of Disadvantaged Groups

A starting point for making elected local councils more representative of the population is the electoral system. Across the world,

the pattern has been that electoral systems with a proportional representation (PR) element consistently produce a higher percentage of women representatives. The same applies to other disadvantaged groups; in a PR system there is space for smaller, localized parties because they are not shut out by large parties that thrive in majoritarian systems.

The most drastic approach has been the imposition of legally enforceable quotas for women and designated disadvantaged minority groups. Less intrusive, but no less effective, have been political parties adopting policies that give effect to gender equality. Quotas entail reserving a specified number of seats for designated social groups. In countries where women have historically been excluded from politics, such as India, South Africa, Argentina, and Pakistan, quotas have been used as a “fast track” to gender equity.

India has been the foremost example of how, through constitutional amendments in 1993, the status of women in political representation has been enhanced considerably. A third of all seats in the panchayats (rural local authorities) and urban municipalities must be reserved for women. This quota also applies to the heads of all local bodies; a third must be women. This has meant that out of 3.2 million members elected in local authorities, more than a million are women.

In other countries, quotas have been sought and implemented through non-statutory means. In South Africa, it is a statutory goal that all political parties should seek 50/50 representation of men and women. Although this is not an enforceable obligation, the African National Congress (ANC) has adopted this policy, and 48 per cent of all its candidates were women in the 2006 local government election. Of the elected councillors, 46 per cent of the ANC members were women, with the overall percentage for all councillors standing at 40 per cent. Unlike India where the one-third quota also applies to leadership positions, only 15 per cent of the mayors in South Africa are women. Recent experiences in Queensland, Australia, suggest that if more women were encouraged to be councillor or mayoral candidates in municipal elections, the percentage of women holding such offices would likely increase.

A particular challenge linked to the imposition of gender

quotas is the perception of “token women”. Also called “proxy women”, these representatives can be seen as being placed in local councils as stand-ins for their husbands, who are the actual decision-makers. There are indications that in some cases, “quota” women are indeed symbolic. This tends to be especially true where the women do not have a constituency of their own or no support base in their party. However, women have impacted meaningfully, it has been found, when they are sufficiently empowered, informed, and confident. These attributes require, however, capacity building and training by civil-society organizations. This was the experience in India where, after 1993, the new representatives benefited from capacity-building initiatives driven by NGOs.

A more difficult question is the inclusion of marginalized groups other than the easily identifiable women. The Indian Constitution provides that seats in the local government structures must be reserved for scheduled castes and tribes in proportion to their numbers in the total population of the local area. State legislatures are further empowered to provide for the reservation of seats for so-called “backward classes of citizens”. In Russia, some constituent units have established a fixed number of seats in their legislature for representatives of Aboriginal peoples.

3.1.2 *More Responsive System of Representation*

Election to a public office is not an end in itself; equally important is keeping the elected representatives to their promises. This is also of importance for persons of disadvantaged groups who may drift away from their constituencies on the flood of cooption and benefits of office. At this point, the objective is to ensure continuous engagement between the voters and their representatives.

Ideally, the ratios of local representation will be small enough to ensure that all municipal councilors are “within reach” of their constituents. However, given the reality of ever-increasing urbanization, such “close” relationships may not always be possible. The usual requirements of report-back meetings to constituents may not always be effective. Another response has been the establishment of a committee of citizens in the ward of each elected representative with the aim of seeking accountability and ensuring an effective channel of communication with the municipal council.

In South Africa, such ward committees, chaired by the ward councillor, are composed of a maximum of ten members who must be elected in a manner that reflects the equitable representation of women as well as the diversity of interests in the ward. This system is intended to ensure that a diversity of interests is taken into consideration, which have not been accommodated through the formal political process of elections.

The most effective method of ensuring accountability is arguably the right of citizens to recall a representative during the term of office. The Canadian province of British Columbia recently enacted legislation affording its citizens the right to recall members of the legislative assembly. In various jurisdictions of the United States, municipal councillors and mayors may be recalled by their constituents. The most celebrated US state case was the recall of Governor Gray Davis in 2003 and his replacement by Arnold Schwarzenegger.

It is in the large metropolitan governments where participatory governance becomes the most tenuous. In response to this problem, political structures below the municipal level are often provided for to maintain grassroots contact. The unicity of Winnipeg introduced ward committees, and in the metropolitan city of Toronto, the community councils envisage a citizen participatory role. The Spanish Local Government Act of 1985 also provides for submunicipal units with an elected council for urban municipalities. In South Africa, metropolitan councils may institute subcouncils with the explicit aim of enhancing communication between the residents and the council. Subcouncils entail the grouping a number of wards together and delegating some decision-making powers to them, an option only exercised thus far by the City of Cape Town. The usefulness of such citizen participatory structures lies, however, in the level of community participation and perceived influence they have.

3.1.3 *Management of Local Government is More Representative*

In any given system of government, the managers wield power and none so much as in local government where the elected representatives are often part-time. It has thus been argued that gender equity should also apply to the local government institutions themselves

to ensure sensitivity to gender issues. As noted earlier, statistics show low percentages of women in senior management positions, even in countries such as India and South Africa where high percentages of women are elected to office. The situation is echoed in Australia where women make up less than 10 per cent of senior executives. Gender representation could be addressed through employment equity policies as well as making the workplace more conducive for the employment of women. The same could apply to the employment of other minority groups.

3.2 *Making the Decision-Making Processes of Local Government More Participatory*

Representative democracy is only one side of the coin in local democracy; equally important is the practice of participatory democracy between elections. Participatory democracy cements the interface between civil society and local government. It is, however, a balance to be struck between the right and duty of the elected leaders to give leadership, yet at the same time to be attuned to the changing needs and preferences of the various communities served by the representatives. Good governance has thus also been universally defined as including inclusive decision-making processes. The second challenge is thus how local government can become more participatory in its decision-making.

The benefits of an effective system of community participation are manifest. By getting actively involved in public affairs, citizens identify themselves with the institutions of local government. Most important, it provides civic dignity to those who participate by having their voices heard and taken account of. The greater the participation in the law-making processes, the more likely is the acceptance of the law and its effective implementation.

3.2.1 *Participating in Key Decision-Making Processes*

Participation in decision-making processes is meaningful where they are concerned with the key decisions that must be made by a municipality. These decisions include the development of an annual

or multi-year strategic plan, the annual budget, the passing of by-laws, and decisions about the delivery of basic services. There are examples from across the world of how these decisions are increasingly subject to local scrutiny and participation. In Brazil, for example, local governments are required by law to incorporate civil society into their deliberative procedures. Brazil's testing of "participatory budgeting" has reportedly been very successful. In South Africa, a compulsory consultation process is also required before a municipality adopts its integrated development plan and budget or outsources any municipal service.

3.2.2 *Direct Democracy*

The clearest example of participatory democracy is where citizens decide key issues themselves. The prime example is Switzerland where the constitutions of most cantons give citizens the right to decide directly the most important decisions through referenda. These issues include budgets, investments, user charges, regulations, the sale or purchase of public property, and so forth. Although such systems make decision-making slower and cumbersome, they strengthen checks and balances.

Akin to referenda is the initiative power in the United States whereby citizens themselves can bypass the regional or local legislative body to enact laws or constitutional amendments directly on their own through the ballot box. The initiative power is available in 24 US states and in Washington, DC.

3.2.3 *Methods Facilitating Participatory Democracy*

While there is a variety of principles and practices, a number of basic elements are found in most participatory systems. The first element on which community participation is built is transparency in municipal decision-making. Although public disclosure is a one-way communication, it lays the foundation for a dialogue with the community. Most countries require that municipalities make public important documents such as the development plans, budget, property rates assessments, tariffs, service-delivery agreements, annual financial statements, sale of assets, and the like. The functioning of the municipal council must also be transparent. The holding of

council meetings must be announced, and they should be open to the public. An important component of the public participation strategy is the communication of information concerning the available methods of participation and the encouragement to use such methods. Household knowledge of participative mechanisms will no doubt increase the willingness of the public to complain as well as provide information about community priorities.

The second element is the entitlement of residents to communicate their demands and grievances to their local authority. The right to petition has deep roots in the democratic tradition, and in many municipalities, there are specific procedures to follow. Once received, the complaint must be dealt with expeditiously.

The third common element is consultation. It comes in various forms and shapes, the overall objective being that the municipality actively seek the views of the community and consider such views once received. Consultation includes the following: least proactive is the publication of a notice in the media calling for comment on a particular matter. If no comments are received, the municipality proceeds with the decision-making process. More proactive is the holding of a public meeting to hear views on the pertinent issue. In this line, a municipality may purposefully seek out the views of specific communities that may directly be affected by a decision.

3.2.4 Communalization of Services

A concrete form of participating in decision-making is where community-based organizations (CBOs) and NGOs provide specific services in partnership with local authorities. In a number of countries, including India and South Africa, municipalities have engaged CBOs and NGOs to provide basic municipal services such as small-scale water supply and refuse removal. Such a municipal community partnership usually entails that, in consultation with a community, a particular service is provided to that community by locally elected or appointed community members. The benefits of such partnerships are that they not only stimulate local economic development, but also can, through the CBOs and NGOs, effectively respond to and meet at least some basic needs of the community.

3.3 *Making the Participatory System of Decision-Making More Inclusive*

While civil-society participation in local government decision-making acts as a counterweight to secret lobbying and influence peddling of the powerful groups in society, it is, not surprisingly, the better organized and well-off sectors of civil-society that exploit the opportunities for participation. However, participatory processes remain vital to disadvantaged groups. While access to the political systems through formal processes may be difficult and costly, community participation is much easier and direct, providing opportunities for those who are disempowered in societies with great disparities in wealth and influence. The third challenge is thus how to make participatory processes of decision-making in local government more inclusive of disadvantaged groups, including women.

The mere fact that avenues for dialogue exist does not mean that they are routinely used by disadvantaged groups. The very fact of their marginalization often is the obstacle to engaging the local authority. The question is then: how to bring the disadvantaged groups into the circle of dialogue. It has thus been argued that municipalities must not only encourage civil society to participate in the affairs of the municipality but must also create the conditions conducive for such participation. That is, local government must also contribute to building the capacity of the community to participate in the opportunities for participation.

To ensure that political, social, and economic priorities are based on broad consensus and that the voices of the poorest and most vulnerable are considered in decision-making, local governments often have to deviate from traditional consultative and communication procedures. In South Africa, it is thus a statutory obligation that when implementing community-participation strategies, the special needs of people who cannot read or write, people with disabilities, women, and other disadvantaged groups must be taken into account.

These measures apply to the three elements of community participation. To realize the aims of transparency, the communication of important documents and announcements must be effective in relation to target audiences. Due cognizance must be taken

about the language preferences of the communities, the style of presentation, and the medium of communication. Formal notices should be complemented by synopses in local newspapers and radio broadcasts. More recently, the posting of documents on municipal websites became an attractive option but then only for those with Internet access. In the Australian state of Victoria, the following suggestions have been made to involve more Aborigines in local affairs:

- send material and information to local Aboriginal organizations about the electoral and participatory processes of the municipality;
- provide translations of public documents in Aboriginal languages;
- provide translators at public meetings and in public offices;
- advertise information and opportunities in Aboriginal media; and
- send invitations to attend and participate in council sessions.

As the petition procedure is the residents' right of communication, the prescribed procedures should be accessible to disadvantaged groups. The insistence on technical and formal requirements usually results in disgruntled residents voicing their disapproval on the streets. To protect the interests of such groups, municipalities in South Africa must ensure that someone is available at municipal offices during office hours to transcribe comments from people who cannot write. This option has to be communicated to the public, and the notice must publicize the name of the staff member(s) responsible for transcription.

The proactive strategy of community consultation is perhaps the most challenging and rewarding. The consultation procedure should, however, suit the community whose opinion is sought. As mentioned earlier, language preferences need to be taken into account as well as the special needs of illiterate people. A pilot project in the townships of Cape Town, South Africa, is underway in which informal settlement dwellers and formal township residents are being engaged with respect to water regulation. Community liaison officers are provided for each linguistic group and are

working with existing community structures to consult locals about water needs and the setting of tariffs for use.

In order to integrate the most impoverished citizens in decision-making, it may be necessary for local governments to use a door-to-door approach, as the poor often cannot afford to leave their homes to go to meetings. Transportation to and from meetings, provided by the local government, has been suggested as well. The provision of childcare may also create more opportunities for women to participate.

The empowerment of disadvantaged groups and the interface between civil society and local government depends on the full participation of civil society. A dialogue requires two partners. Local government may provide the structures and processes for the dialogue to take place, but civil society bears the responsibility to respond to the challenge of making the dialogue complete. A well-organized civil society, also through political party formations, which are active locally in many countries, is thus a critical component in this dialogue.

4. Conclusion

For the enhancement of inclusive democratic government locally, two essential ingredients must come from the community itself. The first is an inclusive elected leadership whose explicit and manifest goal is to serve the entire community. The second ingredient, which supports and holds the former accountable, is an active civil society. An inclusive form of participatory democracy requires that all members of the local community claim their rightful place in local government. This requires a strong civil society that can interface with local government in an informed and directed manner. In particular, strong grass roots organizations can articulate the needs of the members more effectively and engage local government in the spaces available for participation on key decisions for more effective local solutions. Only when civil society reflects all the inhabitants, including the disadvantaged groups, does the promise of the municipality being the *universitas* of its inhabitants become a reality.

Subtheme Paper

The Functioning of Local Governments and their Relationship with Upper Levels of Government

George Mathew

Abstract

Local government can be understood as an initiative in all federal systems to enable democracies to represent both “numbers and interests” as adequately as possible. However, in most federal systems, there has been more emphasis on “institutional realities” than on “operational realities”. Consequently, there are some major challenges before federal polities with respect to local governments. Some federal systems have not risen above the level of mere decentralization, thereby not proclaiming local government as one of their constitutional features. Some have proclaimed local governments as constitutionally assigned institutions with substantial powers and responsibilities. Some have made them dependent on the federal government and constituent units. Some have merely talked of local governments without adhering to operative principles. Not all relevant powers have been transferred, but many now rest with local government institutions. The voluntary sector has also emerged as an important player for strengthening people’s institutions. Thus, the challenge of local government can be divided into two. First is the problem of the representative character of municipalities that are eager for a

greater say in decision-making. Second is the governance of villages and small towns where people have a bundle of problems. Strengthening local governments at these levels would boost the federal character of society and polity. However, the discussion in this paper is limited to relational issues between local governments and the other orders of government.

1. Introduction

Strong and autonomous local governments in a territorially vast country and socially diverse society are generally understood to be important grass roots institutions needed to support a federal polity. As a new emerging trend in federalism, at least in some countries, local government can be said to be the extension cord of a federal polity mainly due to its growing relevance for the people at the grass roots level. In other words, effective local government is a very healthy sign of the democratization process, which is an inevitable character of viable federalism in a country.

It is quite interesting to note that local government institutions, varying in form and practice in different countries, are mostly pre-political and pre-constitutional. Their growing need in civic and modern democratic societies clearly justifies their relevance in both the pre-modern and post-modern worlds. In ancient history, tribes, clans, and peoples established systems of local governance in most parts of the world, though there were extensive variations in their typology. Indian local governments (panchayats) are one outstanding example. Legacies of ancient forms of local governance exist even today in India, Mexico, the United States, Canada—particularly those of the indigenous peoples in the United States and Canada—and other federations.

Various conquests, wars, and impositions of modern administration under colonial rule resulted in the extinction or weakening of such ancient institutions of local governance. At the same time, monopolization of powers in a few hands and the building of empires and colonies brought about centralized administrative revolutions. Governments in modern times became urban-centric, pro-elite, and supportive of free-market economics and militariza-

tion. Their policies and actions were middle-class oriented, distancing them from the day-to-day needs of the rural people and urban underclasses and their institutions. The focus of modern governments was on centres of power politics, commercial activities, and means of accumulating coercive powers under the pretext of maintaining national security, public order, national boundaries, and supplies and services essential to the society. This trend resulted in the formation of strong national and provincial governments in many diverse societies, thus arresting the advance of local governments in many cases.

However, the principles of self-rule and shared-rule inherited in the doctrine of federal governance on one hand and the subsequent universalist surge of democracy in delivering benefits to the common people on the other hand became instrumental in reviving the institutions of local governments. The introduction of the universal adult franchise also became instrumental in compelling national elites to respond to the needs of the local people. For example, mainstream leaders of India's Freedom Movement sought the support of the rural and local masses by raising their hopes about renewed self-governance at the village-community level. The idea of "village republics" propounded by Mahatma Gandhi was characterized by autonomy and self-reliance for local management of resources. Thus, the spread of democracy, pluralism, and appreciation of diversity as both principles and values became a compelling factor for national and subnational governments to pay attention to the revival and strengthening of local governments.

Another factor was the failure of the national and subnational governments in many countries to have continuous access to the people at the local level after the citizens were formally empowered with the adult franchise. Moreover, globalization and the revolution in information technology necessitated the end of "isolationism" and promoted the need for good governance with particular reference to responsiveness. Thus, the natural response of federal democracies in countries having diverse societies was to create or strengthen institutions of local government in order to meet the needs of people who required responsiveness from their governments at the local level.

Questions facing the modern democracies included the following. What are the best remedies for overcoming the problems of local people far away from the national and subnational government capitals? How can local people be made responsible for their needs? How best can local governments legitimize their existence and relevance? How can societies ensure people's participation in development? What should be the spheres and jurisdictions of local governments? What role should be assigned to local governments by the constitution, the national government, and/or the state/provincial government? What should be the nature of relationships between local governments and the other, larger orders of government? Almost all the questions mentioned above run around the central theme of the relationships between local governments and regional and national governments.

2. Constitutional and Provincial Determination of Local Tasks

After the modern state became dominant, local government as the organizational form of self-rule got a competitor. Over the years, the tendency of modern national governments has been not to share sovereignty with local government but to share powers meant for local needs. This has resulted in conflicts and rivalries between local government and the federal government as well as subnational governments. However, local government has become a universal governing reality with a huge overhead structure that is a two-layered government, the impact of which can be massive. The need of the hour is a platform for local government to raise its voice vis-à-vis the other orders of government. Disputes arising between the federal and state governments about responsibility for a certain programme may lead to a non-funded mandate for local government.

The nature of the assignment of the tasks to be performed by local government determines its pattern of relationships with the regional and national orders of government. The constitutional status and legislative standing of local government determines the nature of its relationships with the other orders of government in most polities, which in turn explains their fiscal relations, inter-

dependence, dependencies, interventions, and one-sided bargaining. Constitutional entrenchment of local governments in federal constitutions and statutes might make this relationship easier and more functional.

2.1 *United States of America*

State and local governments in the United States are highly devolved and complex, both organizationally and fiscally. The US Constitution does not explicitly mention a long list of responsibilities of both the federal and state governments. There is only a list of powers delegated to the US government. The Tenth Amendment to the US Constitution states: “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” Thus, the states retain considerable powers that also include the power to establish local governments. Consequently, the organizational structure of local governments, their functional responsibilities, and their revenue powers differ across states, from highly centralized Hawaii to highly decentralized New Hampshire.

The US Bureau of the Census recognizes five basic types of local government. Three of these—counties, municipalities, and townships—are general-purpose governments in that each is intended to provide an array of public services. Two additional types of limited-purpose local governments also are recognized—school districts and special districts. With two exceptions, states are fully subdivided into counties, which generally perform many public services and rely on taxes, user charges, and intergovernmental transfers of revenues. The Census Bureau defines a municipality, which includes various forms of government ranging from a large city (e.g. New York City) to small towns and villages with few people. Municipalities may be located within a county but they may also cross county borders in some cases. The special district governments provide a limited number of services. They have sufficient administrative and fiscal autonomy to act independently from other local governments. They perform public services such as fire protection, cemeteries, housing, water supply, sewage services, and

drainage and flood control as well as capital intensive services like airports. With the exception of many special districts, various types of local governments have elected officials with differences in their structures. For example, municipalities can have three types of governing structures: mayor-council, council-manager, and commission.

2.2 *Switzerland*

In Switzerland, local governments, known as municipal governments, constitute the third order of governance after the confederation and cantons, and they are the chief feature of decentralized administration. According to Article 3 of the Constitution, all powers rest with the cantons unless the federal Constitution explicitly transfers a specific power from the cantons to the federal order. Such constitutional amendments are submitted to referenda and enter into force after they get approved by a majority of both voters and cantons. Constitutionally, municipalities only have a general residual competence. As a result, they can perform those tasks that are not reserved for the confederation and the cantons. Contrary to the Federal Constitution of 1874, the Federal Constitution of 1999 contains specific articles regarding municipalities. Under Article 50, the autonomy of municipalities is guaranteed within the limits fixed by cantonal law. Thus, a municipality is not an institution of federal law. It is the respective legislation of each of the 26 cantons that sets up the municipalities and defines their organization, competences, and resources, as well as the power of control and intervention of the cantonal authorities in municipal affairs, as did the new constitution of the canton of Fribourg in May 2002.

2.3 *Canada*

In Canada, a constitutionally entrenched subordination of municipalities to the provinces affects every aspect of municipal affairs. Recently, the federal and provincial governments demonstrated an interest in empowering local governments with definite authority and responsibility rather than regarding local governments simply

as institutions created by the provincial governments for provincially defined goals. Under Section 92(8) of the British North America Act, 1867, provincial governments have exclusive responsibility for making laws relating to their municipal institutions. Notwithstanding the provinces' exclusive jurisdiction over municipalities, the provincial governments have delegated to the municipal institutions the administrative power to adopt regulations over subject matters enumerated in Section 92 (exclusive legislative powers of the provinces).

The primary source of authority for local governments is a form of "municipal act" in most provinces; there are also hundreds of other provincial statutes that delegate power to communities. For instance, many financial and accountability provisions affecting local governments are found in provincial and territorial statutes. It should be noted that there is no constitutional recognition of municipal institutions as an order of government. Municipalities are creatures of provincial statute with only those powers conferred on them by the province. Accordingly, a municipality under the traditional regime of provincial "municipal acts" is like a "public corporation" created by the government for political purposes and having subordinate and local powers of legislation.

2.4 Australia

Like Canada, the Australian federation comprises two spheres of government—the Commonwealth and the states. The statutory status of local government in Australia and Canada resembles each other on several levels, partly because both had the same colonial patron in the past. Systems of local government existed under the colonial predecessors of Australia's states. In 1901, the federal Constitution recognized the colonies as the original states of the federation and preserved their constitutions, powers, and laws. Following federation, local governments remained subject to state law. Unlike Canada, each state in Australia has its own constitution, which can be altered by its parliament and sometimes by ordinary legislation. A state can create subordinate bodies, such as municipalities, hand over to them the protection of local interests and give them such

powers as may be necessary for the proper care of these interests. As a result, local government is the creation of the states, organized separately by each state in discrete systems of local government. The boundaries of local government areas, the constitution and powers of local government bodies, and the very existence of a system of local government are matters for the government and the parliament of each state.

Several similarities can be found between the systems of local government in the various states of Australia. Local governments are not mentioned in the Constitution of Australia. This marks a difference between Canada and Australia. A proposal to recognize local government as an institution of the federal set-up was defeated at a referendum in 1974. Despite this drawback at the constitutional level, local governments have a national presence in Australia, as local government was recognized in the constitutions of South Australia and Western Australia in 1984. By 2005, all state constitutions had done so. At least, such recognition offers greater scope to provide more effective protection for key aspects of the status, structure, and operation of local government. In each state, local governments have a top forum known as the Australian Local Government Association organized as a distinctly federal-type arrangement. It is the most effective lobbying agency benefiting local governments in various ways. The lobby also participates in the Advisory Council of Inter-Governmental Relations modelled on the former US Advisory Commission on Intergovernmental Relations.

However, in reality, local governments achieve relatively little effective protection. In fact, tensions have mounted due to the legitimacy of the elected local government on the one hand, and the responsibility of the states on the other. The logic of the former is that local government is accountable to its voters, and electors can respond to maladministration or worse at regular elections, voting local representatives out of office. The latter assumes that the state is responsible for significant deficiencies in the operation of local government and may intervene to ensure effective performance.

All state constitutions in Australia guarantee a system of local government, but only Victoria reflects the democratic significance

of local government. Only one state, Western Australia, guarantees the elected status of the system of local government without express reservations to allow parts of the system to be appointed, permanently or temporarily, or in the case of New South Wales, to provide that local government may be either elected or appointed. No state constitution guarantees any particular content for the powers of local government. In each case, the constitution explicitly leaves it to the state legislature to prescribe the powers of local governments from time to time. In four states, the constitution makes no attempt to prescribe an objective general standard for determining the powers of local government, referring only to the powers that the state parliament “considers necessary” for the government of the local areas concerned. In fact, the state constitutions provide only fragile protection for local government against arbitrary dismissal.

2.5 Germany

Länder and local governments exist in the Federal Republic of Germany. In all but one of the 16 *Länder*, the council system exists whereby each local government, in the form of a municipal council, is generally elected for a term of five years. However, this can vary between four and six years. Each council is headed by an elected mayor, known as the *Bürgermeister*, who acts as head of both the council and the administration. The tenure can vary from four to nine years. Common responsibilities of this tier include planning, water management, social welfare, and the construction and maintenance of schools. Some councils are also engaged in cultural affairs, economic development, and energy-related activities, depending on the *Land* set-up.

2.6 India

Local governments are guaranteed by the Constitution of India; they were included in 1993 by constitutional amendment. It was on 22 December 1992 that the Congress government passed the Seventy-Third Amendment, which gave panchayats a constitutional status. The amendment also institutionalized a three-tiered system

of panchayats (except for states with populations less than two million), with panchayats at the village, block, and district levels. It also stipulated that all panchayat members be elected for a five-year term in elections supervised by state election-commissions.

When the Constitution was adopted on 26 November 1949, Article 40 directed the government to establish panchayats (democratically elected village councils) to serve as units of local self-government. Most states began implementing this directive principle along the lines of the recommendations of a commission appointed by the Union government in 1957 under the chairmanship of Balwantrai Mehta. According to these recommendations, the popularly elected village council (gram panchayat) is the basic unit. Village council chairs, elected by the members of the village council, serve as members of the block council (panchayat samiti). A block is a large subunit of a district. In some states, blocks are coterminous with taluqs or tehsils. In other states, taluqs or tehsils are divided into blocks. The district council (zilla parishad) is the top level of the system. Its jurisdiction includes all village and block councils within a district. Its members include the block-council chairs.

Nearly three million representatives get elected every five years in these local governments. Women head about 198 district panchayats (out of about 537), more than 1,970 block (tehsil/mandal) panchayats (out of about 6,094), and about 77,210 village panchayats (out of 232,913). Likewise in the urban areas, they head more than 34 city corporations, 476 town municipalities, and 670 nagar panchayats. However, in many cases, traditions and paternalism have prevailed over female empowerment. Illiteracy, poverty, and social inequalities work as negative factors. Despite being listed in the national Constitution, local governments depend heavily on the federal and state governments for finance and budget allocations.

2.7 Spain

Local government is constitutionally recognized in Spain. There are two types of local bodies—provinces and municipalities—that work under Spanish regional states known as autonomous communities (ACs). Until 1985, the law of the dictatorship regulated

Spanish local governments. However, according to Article 137 of the Spanish Constitution, Spain is structured into municipalities, provinces, and autonomous communities. Local bodies are only granted the right to local autonomy, which is not specified in the Constitution. Constitutionally, priority was given to the recognition of the ACs and their effective powers. Local power was basically defined by statutory law, not only by state law but also by regional laws of the ACs, which have legislative powers over local governments in their statutes of autonomy.

The legal system of local government belongs to the concurrent jurisdiction of the Spanish state and the autonomous communities. The state is responsible for the fundamental regulations; the ACs are responsible for the non-fundamental regulations (the so-called development regulations). Spain's Constitutional Court also has substantiated this stand. Moreover, the Constitutional Court has conferred wide regulatory powers upon the state over local government to the detriment of the ACs. Special legal status was granted to cities having populations exceeding 500,000. Spain's membership in the European Union has also boosted the morale of local governments to address local needs with more autonomy. Municipalities also established the Forum of Municipal Development in 2002, which represents an agreement between the national government and three government associations serving as a forum to discuss legislation and issues related to municipalities.

2.8 Mexico

In Mexico, states contain municipalities of vastly different sizes. Mayors have municipal councils, which are indirectly elected for three years and cannot be re-elected. Mayors in Mexico are actually "municipal presidents". The federal government had, until the mid-1990s, control over the provision of most public services. Reforms in 1984 and 1988, however, enabled municipal governments to bring more federal money directly to the local level. An organization called "Local Governments for Autonomous Local Government" established their constitutions in 1994. It originally consisted of 18 mayors, with another 50 mayors later following suit. In 1996,

the organization's name was changed to the Association of Mexican Municipalities, with its first aim being the enhancement of local government autonomy.

2.9 *Brazil*

The 1988 Constitution of Brazil guarantees autonomy to state and municipal orders of government, the latter having mayors and city councils. The Constitution provides states with a wide remit of powers, including exclusive control of policing and criminal justice, while sharing responsibility for health, education, economic development, and infrastructure with the federal government. Municipal government must share all these responsibilities with federal and state authorities, except for transport, its only exclusive public policy responsibility. However, municipal government is often identified with having primary responsibility in some fields, most notably in pre-school education and the production of urban development plans where the population is greater than 200,000.

2.10 *South Africa*

In South Africa, the interim constitution of 1993 recognized local government as a tier of governance. The notion of "tier" was renamed "sphere" of government in the 1996 Constitution, which defines local spheres of municipalities covering the entire country. A municipality, moreover, has the right to govern, on its own initiative, the local government affairs of its community. Municipalities have administrative and legislative power with regard to 38 listed areas. Local government can participate in the National Council of Provinces, though without the right to vote. Both national and provincial legislation may intrude on areas of municipal responsibility.

Municipalities are subject to supervision, and intervention by provincial governments to assume responsibilities on behalf of a municipality is permitted by the Constitution. The supervisory function entails the establishment and structuring of municipalities, regulating the exercise of their competences, monitoring the exercise of those competences, and, in certain circumstances, intervening

in municipal affairs. The establishment and determination of the basic features of the municipalities in a province are done jointly by the Municipal Demarcation Board, the national government, and the provinces. National legislation determines the basic structure, operational system, and financial management of municipalities. National and provincial legislation further regulates the various areas of local competences. The provinces are constitutionally assigned to monitor local government to ensure that it remains within its jurisdiction; the national government does this on an implicit basis. Local government is duty bound to engage in extensive reporting.

3. Fiscal Relations

Theories of fiscal federalism ordinarily treat local government as a subordinate tier in a multi-tiered system and outlines principles for defining the roles and responsibilities of the various tiers of government. In most countries, airports, parking, water, sewage, and garbage collection are predominantly financed by fees, whereas social services are primarily financed from general tax revenues and intergovernmental grants. Infrastructure finance relies on a mix of sources that includes own-source revenues and reserves, charges, fiscal transfers, borrowing, and public-private partnerships. In most countries, significant help is available from higher-level governments in facilitating local government's access to credit markets. Indirect subsidies for state and local borrowing are available in the United States. In Canada, most provinces assist local governments with engineering, financing, and economic analyses of projects. In most of the federations, as in the United States and Canada, local governments are extensions of state governments. In a few cases, as in Brazil, they are equal partners with upper-level governments, and in exceptional cases, such as Switzerland, they are the main sources of sovereignty and have greater constitutional significance than the federal government. Thus, depending on the constitutional and legal status of local governments, state/provincial governments in federal countries assume varying degrees of oversight of the provision of local services.

Income taxes, property taxes, and fees are major revenue sources for local government. In Belgium and Switzerland, more than 80 per cent of tax revenues are derived from taxes on personal and corporate incomes. By contrast, in Australia, Canada, New Zealand, the United Kingdom, and the United States, property taxes contribute more than 80 per cent of local tax revenues. Austria and Spain rely on a mix of local taxes and fees. Intergovernmental finance is relatively less important in Austria and Canada. Local governments in many OECD countries typically perform agency functions for higher-level governments and have only a limited range of locally determined responsibilities, but in the United States, specific-purpose transfers (i.e. categorical grants) assume greater importance in local finances.

3.1 *Fiscally Dependent Local Governments*

In some federations, the dependence of local bodies on the upper-level governments is structured or sustained by the structures of intergovernmental relations between local governments and the upper levels. This has resulted in their complete subordination to the federal and state governments. The trend and pattern of relationships depend mainly on the autonomy factor, particularly on the part of local government.

3.1.1 *Canada*

In Canada, one finds about 4,600 municipal governments available in wide varieties—cities, towns and villages in rural areas, counties, and urban municipalities, but other forms include some regional and metropolitan municipal governments. In addition to these general-purpose municipalities, there are about 8,000 special-purpose local bodies, including boards and commissions. Most transfers to municipalities in Canada are provincial-municipal transfers. There are some federal transfers to municipalities under the Infrastructure Canada Programme for investment in local government in terms of sustainable-development initiatives. Other examples are the Green Municipal Enabling Fund, Green Municipal Investment Fund, and National Homeless Initiative. In

addition to federal transfers to local governments, the federal government spends money in cities for such things as settlement and language programmes for recent immigrants and also activities under the National Crime Prevention Programme and the Technology Partnership Programme. However, provincial government is the largest source of transfers to local bodies, and these transfers are divided into conditional and unconditional grants.

There is no local autonomy in transferring shares of federal or provincial revenues to municipalities. Under this option, an increase in revenues to municipalities depends on an increase in the sources of revenues. Under the second option, the tax base is determined by the federal and/or provincial governments at a uniform rate for municipal purposes, and funds collected are then distributed to local governments. Under the third option, each municipality can set its own tax rate based on its expenditure needs. Under the fourth option, municipalities levy their own local taxes (e.g. income, sales, and fuel). Four sources of revenue—income tax, sales tax, fuel tax, and hotel and motel occupancy taxes—are currently shared or could be shared with local governments. Therefore, it can be said that Canadian local governments do not have any constitutionally based revenue-raising authority. Today, the main sources of income for municipalities include the property tax, user fees, and grants from provincial governments. The local bodies are in a subordinate relationship vis-à-vis the provinces in that the latter has broad powers of supervision over local governments that are exercised as and when provinces deem appropriate. However, municipalities lobby the federal government, resulting in relatively modest federal funding for municipalities. Municipalities can also borrow from the provincial government. The Australian case is very much similar to the Canadian experience.

3.1.2 United States

The 87,576 local governments in the United States (as of 2002) owe their origins to the people of the states, which provide for local governments through their state constitutions. All 50 state constitutions have provisions on local government. Thereafter, the state

legislatures play big roles in working out the myriad details of local government. State and local governments are required to raise a substantial portion of their resources using their own taxing and charging powers. For the nation as a whole, more than 70 per cent of state general revenues are derived from their own sources; the portion of own-source local government revenues is approximately 60 per cent. Three broad-based tax instruments are used in most of the states to generate revenues for state and local governments: the sales tax, income tax, and property tax. The property tax remains a primary revenue source for local governments. Both the federal and state governments fund transfers to the local governments, resulting in some dependence of local governments on the other orders of government, though mostly state government.

3.1.3 *India*

India is one such example where local governments depend heavily on federal and state grants. Despite the constitutional entrenchment of local-government fiscal powers, these governments remain at the mercy of the federal and state governments.

3.1.4 *South Africa*

In South Africa, local governments have no right to levy an income tax, value added tax, general sales tax, or customs duty. They get revenue from conditional and unconditional transfers from the federal government. The federal and provincial governments exercise extensive supervision over local governments, which include structuring municipalities, regulating the exercise of their competences, monitoring their exercise of those competences, and, in certain circumstances, intervening in municipalities. The relationship of municipalities with upper-level governments resembles patron-client relations whereby both the federal and provincial governments have a constitutional obligation to support and strengthen the capacity of municipalities to manage their own affairs. Financial assistance mainly comes from the federal government in the form of conditional grants, leaving provinces to provide institutional and capacity-building support in South Africa.

3.1.5 *Brazil*

The dependence of local government on federal and state transfers is well established in Brazil. Because states are constituent federal units, they have an advantage over the municipalities by having their own sources of revenue.

3.1.6 *Mexico*

In Mexico, the vast majority of tax funds collected is appropriated by federal agencies, thus creating considerable local-government dependence.

3.2 *Fiscally Autonomous Local Governments*

Some federal countries provide substantial fiscal autonomy for local governments.

3.2.1 *Germany*

In Germany, regional administrative bodies include the regional planning associations, 323 rural districts, and 116 incorporated cities and municipalities, which form a part of rural districts. At the end of 2000, there were 13,897 municipalities. Tax revenues are distributed among the regional administrative bodies, using both their assigned revenues and their shared revenues. The political accountability for their expenditure is not defined clearly. The level of and criteria for social welfare are fixed by the federal government, but the disbursement of grants and examination of social demands and needs are the responsibility of local bodies. Moreover, the federal government delegates a huge number of administrative duties, mainly in the area of social security, to the *Länder* and local bodies and bears the expense of those delegations.

In the developed parts of Germany, tax revenues are the biggest revenue item, whereas in comparatively less developed *Länder*, municipalities are funded by grants because of their low income. Municipalities receive a fixed share of personal income tax and VAT revenues, and they are entitled to stipulate municipal assessment rates for the real property tax and the trade tax. This power ensures them at least some basic elements of fiscal autonomy. There are a

number of other petty municipal taxes, which include the alcohol tax, entertainment tax, dog-license tax, hunting license tax, fishing license tax, and second-home tax. According to municipal laws governing these taxes, municipalities are free to decide whether to levy each tax and at what rate.

In every *Land*, a local equalization system exists under which the *Land* government must transfer a portion of its tax revenues to local authorities under an arrangement called “obligatory tax sharing”. In addition, the *Länder* give local authorities a share of further revenues, such as grants from the equalization system among the *Länder*, grants from the federal government because of economic weakness, and proceeds from the motor-vehicle tax.

3.2.2 Switzerland

In Switzerland, there are 2,815 municipalities and communes in 26 cantons. Local autonomy is assured by the constitutional arrangement under which all tasks not subject to federal or cantonal jurisdiction fall to the municipalities. This principle is known as subsidiarity. In the case of the failure or inability of the municipality to take up the tasks, they are transferred to the cantonal government. Moreover, the management of financial and administrative affairs belongs to municipalities. Fiscal sovereignty belongs to the federal government, but municipalities certainly enjoy fiscal autonomy. They have their own tax revenues and receive grants-in-aid (13 per cent of their total revenues). This means that 87 per cent of municipalities’ revenue comes from their own tax sources. Their share of total public expenditure is 30 per cent, and they also raise approximately 30 per cent of all public revenue. Municipalities have a right to exist, freedom to choose their own political structure and administration, freedom to legislate, plan, and implement their activities, the right to impose taxes, the power to act in all areas not covered by the federal government and the cantons, and the right to judicial protection of autonomy.

4. Conclusion

The workings of federalism in the countries discussed above shows that local governments have a role in the governance system. In no

country has the final word been said on decentralization and the functioning of local governments as well as their relationship with upper levels of government. Such relationships are evolving processes. In some countries, the process is dynamic; in others, it has been static for quite some time.

The most serious hurdle in the way of full realization of this process lies in the fiscal dependence of local governments on their state/provincial and/or federal governments. Fiscal dependencies are, in some cases, structural in nature. In younger federations, in order to spread the wave of decentralization further down to the grass roots, the relations between the local governments and the national and provincial governments have to undergo a transformation. Constitutional provisions are seen by the protagonists of local government in countries like India as a necessary condition for achieving this goal. Again, in the emerging federations, for the municipalities and rural local bodies to achieve real self-governance and act as the third order of government is a major task. When the local governments come under the provinces or the states, the tensions between them are a major issue as well. Here, the safeguards are the national constitution's provisions and, ultimately, the judiciary.

Subtheme Paper

The Functioning of Local Government in Federal Systems: Perspectives from India

Vinod Vyasulu

Abstract

This paper reflects on some critical issues in the functioning of local self-governments (LSGs), based on India's experience after the 73rd and 74th constitutional amendments of 1992, ratified in 1993 and implemented soon afterward. The first section sets forth some issues about local government that have come to the fore in recent years. The second section discusses 12 conundrums regarding LSGs in India. These puzzles refer to reasons for amending the Constitution to establish LSGs, the artificial division between urban and rural LSGs, the meaning of local self-government in contrast to local government, use of the caste-bound term "panchayat", the rigid structure of multiple levels of LSGs, whether LSGs are legislative or executive in nature, why reserved elected LSG positions for women are capped at 33 per cent rather than 50 per cent, the deleterious effects of state-government control of the devolution of powers to LSGs, the reluctance of LSG officials to use local tax powers to raise revenue, why elected LSG representatives are referred to as "non-officials" by state-government civil servants, the belief that decentralization amounts to little more than the decentralization of corruption, and conflicts between civil-society organizations and LSGs. These conundrums highlight weaknesses in the conceptualization and functioning

capacities of local self-governments. This section is followed by three key issues around which the conference working group based its discussions. These issues involve the transition to local self-government, capacity-building, and institutional development. The last section presents some specific state cases that highlight some well-functioning aspects of LSGs in India.

1. Changing Federal Systems

Discussions on federalism have often been about a level below the nation state; provincial or, as per Indian usage, *state* governments. The debate on “Centre-State” relations in India in the 1980s resulted in more effective powers being accorded to the states. This of course also had much to do with the changing nature of Indian politics. In the 1990s, many countries opted for some form of decentralization—from a big-bang approach in Indonesia to a more limited local system in Pakistan. The Philippines, Mexico, and Brazil are other countries that decentralized in a big way.

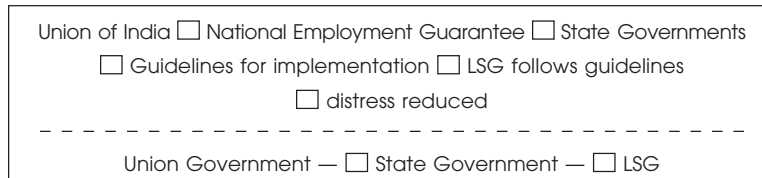
The point is that today *the debate has moved on to a level below the states*; to local self-governments (hereafter LSGs). Federalism in this context is much more complex, and its practice is so much more complicated. Experience is varied, from the participatory budgeting in Brazil to local planning in India.

Local government functions are often described in terms of the principle of *subsidiarity*; that is, work should be undertaken at the level that is appropriate, not at higher levels. For example, street lights should be managed by local government, not by a higher level of government. This means that decisions on such subjects must be taken at the level where they are implemented. A local service is provided locally, and the matter ends there. (The 11th and 12th Schedules in the Indian Constitution provide an indicative list of such activities.)



In large and diverse countries, local jurisdictions differ a great deal in terms of the resources they can draw upon. Some are well endowed, but many are not. For example, in Karnataka in India, Bengaluru is a city possessing excellent resources to fuel its development; the rest of the state is way behind. In a democratic set up, such regional inequality is not accepted; national governments have to make efforts to reduce such disparities. In India, this is enshrined in the Directive Principles of State Policy.

In such situations, *the equalization principle* becomes relevant in the organization of LSGs. Higher levels of government have a responsibility to transfer resources to the poorer areas in order to ensure that citizens everywhere get roughly equivalent services. For this, higher levels of government use tax funds they collect. This implies, however, that decisions on such resource transfers cannot be taken locally; the very nature of the problem requires regional or national planning. Higher levels of government need to play an important role in this decision-making. For example, in India:



A local need—work to ensure a minimum level of consumption—is met in this example by higher levels of government from funds they transfer for the purpose. The LSG implements a programme of local importance, but the decisions are taken at a higher level. The LSG is an *agent* of that level, at the end of the policy chain, not at its beginning.

These are two extreme situations; most issues fall in between them. The LSG has limited autonomy, and this limit varies across LSGs. It depends on higher levels, which often control more resources and then give directions on how those resources are to be used by LSGs. Such resources (more than just funds) may be transferred on different terms—from outright grants to the offer of matching funds, and with various conditionalities attached to them. The

dilemma of autonomous local governance lies in this band of uncertainty.

For example:

LG local plans local funds its own works ... grants from above
schemes for local people guidelines from above LG.

When grants are greater than local funds, equalization dominates subsidiarity because funds are "tied"; autonomy is relatively reduced, other things remaining equal.

Where then is the locus of control to be located? It is desirable that LSGs make their own decisions on matters of local importance. It is also important that the poorer among them be given grants to improve the quality of life of their people. This must be done in a manner acceptable to people in the richer areas who must feel that the transfer of their resources to others is justified. Conditions vary, and there is no unique solution to this question.

The issue is essentially political; such decisions can be taken and implemented in a democratic manner, as there is no unique or optimal solution to cover all situations. The tensions in the working of LSGs owe a great deal to this duality of managing to implement the 'local' wishes along with the mandates of the 'higher' authority. This is an inbuilt tension.

Different countries have dealt with this tension in different ways. The same country may deal with it in different ways at different times. India made a major effort in the early 1990s through constitutional amendments.

There has been a great deal of literature on what has been achieved and what the shortfalls are. This paper reviews these issues. It cogitates on some conundrums that seem unique, perhaps to the Indian experience. The intention is not to imply that these are more important than others; instead, it defines the zone of ignorance of this writer and an understandable desire to stay in the region of least ignorance.

2. Some Conundrums

2.1 *Was a constitutional amendment to introduce LSG necessary in India?*

This is not an idle question. The Directive Principles of State Policy (Article 40) have a provision for village panchayats. Several states had established local panchayats from 1959 onwards. Two states—West Bengal in the 1970s and Karnataka in the 1980s—had brought in, by law, decentralized institutions and held elections to bring them into existence. Both have been widely written about. But states also routinely superseded them. Often elections were not held for years together. Their existence was therefore shrouded in uncertainty.

After he became prime minister, Rajiv Gandhi, based on extensive consultations, became convinced that “people’s participation” in development programmes would remain a dream if there were no locally elected bodies to facilitate such participation. Providing such bodies a constitutional status would give them credibility and legality and help them in their work. He proposed a constitutional amendment that could not clear the Rajya Sabha. Later however, the 73rd and 74th amendments were passed in 1993.

These amendments included the following constitutional features. Below the level of the state, local governments became constitutional bodies. They were to be elected every five years; reservations were made for scheduled castes and tribes in proportion to their population; and at least 33 per cent of the seats were reserved for women. In rural areas, there are three levels of local self-governments—at the village, development block, and revenue-district levels. In urban areas, there are various sizes of municipalities and city corporations. States cannot dismiss them arbitrarily. Elections must be held within six months of the expiry of their officials’ terms. Each state had an independent election commission to conduct elections. Each state was to set up a Finance Commission to recommend how revenues were to be shared between the state government and the various local self-governments. Also, a District Planning Committee was to be set up, based on representation from

among those elected to the various LSGs, to integrate urban and rural local plans. What the LSGs were to do was to be decided by the legislature of each state.

The LSGs had existed before these amendments, and in some cases have not done well after them. India has a long history of urban governance through municipalities. Were these amendments necessary? One can argue that they are neither strictly necessary for LSGs to exist in India, *nor*, given the findings in the literature, are they sufficient to ensure they work. Why, then, this legal garb? I believe that the amendments are necessary if regular and timely elections are to be ensured, and if the power to supersede them arbitrarily is to be checked.

States can no longer arbitrarily supersede and dissolve LSGs as in the past. Elections must now be held at regular intervals. Because the states are reluctant to do so, this legal compulsion is important for the existence of LSGs. Recently (February 2007), the state election commission went to court to force the Karnataka government to hold elections for municipal bodies whose terms had expired. States are clearly reluctant to devolve responsibility below their own level—although they want powers devolved from above to their own level!

This protection is not an unimportant step forward because it ensures the existence of LSGs. It provides a foundation on which LSGs can build better governance.

2.2 *Why is LSG schizophrenic, with an urban avatar and a rural avatar?*

The issues that LSGs are to grapple with are similar—street lights, drinking water, sewage, etc.—even if the urban and rural contexts are different. In India, we have two constitutional amendments—the 73rd for rural areas and the 74th for urban areas. There are two ministries—Urban and Rural Development—that deal with LSG issues. The 74th Amendment provides for a District Planning Committee (DPC) whose mandate it is to “integrate” the plans of the rural and urban areas within a district. DPCs have not been set up everywhere yet. The two worlds are, and continue to be,

poles apart. In discussions, this often becomes a “rural” *versus* “urban” issue, when that is likely to be a false dichotomy.

Pakistan, which, until 1947, shared the same administrative culture, removed this dichotomy in the Local Governance System introduced after 2000. The sub-provincial units are now districts and city districts. Given that Pakistan’s colonial administration was common to India’s, this is indeed an important innovation requiring more detailed study in India. Does abolishing this distinction and focussing on *governance* work better?

This rural-urban dichotomy is an anomaly from the past. It serves no purpose other than to distract attention by diverting political energy in different directions. Civil society has so far failed to surmount this diversion. In this paper, the focus is on *local governance*, without the distraction of the urban-rural divide. Perhaps this change in focus is itself important.

2.3 *Why do we speak of local self-government rather than local government?*

In fact, the common practice in India is to use the term “local bodies”. not even LSGs. Is this simply because “self-government” is a translation into English of the word “*swaraj*” or self-rule? We do not speak of the Self-Government of India or the Self-Government of Andhra Pradesh. Does the term reflect something we have not fully internalized? Is Local Self-Government less than government in some way?

Could it be that the term reflects the end result of an historical process? After 1857, India had a viceroy, and the large presidencies had governors who reported to the viceroy. The presidencies were so large that it was not possible to administer them from the capital. The solution was to carve out districts—which were boundaries with a single revenue jurisdiction, and delegate power to the “collectors” of these districts. The revenue village was at the bottom of this pyramid. The revenue officer mattered locally.

The collector became over time the face and fulcrum of all government activities in the district. He reported to his superiors at the state capital, but worked locally with a great deal of auto-

nomy, as much because of the large distances involved as for any other reason. This system of administration continued after 1947. The Constitution used the term self-rule in the Directive Principles of State Policy.

Is this a reference to a shift from collector rule to some other form, which being self-rule is better? Does the term have a localized meaning? If so, what is the implication of this localized meaning? Is it a subtle way of reducing the prestige of the institution? Should we not shift to local government as the preferred term? This leads to the next conundrum.

Pakistan has moved away from the collector system to one where the district is headed by an elected *nazim*. If this works well on the ground, there is much to learn from this experience.

2.4 Why do we use the word panchayat rather than gram sarkar or gram shasan, which mean government?

The word “panchayat” is an old one, which referred to a traditional form of dispute resolution in many parts of India. While it has survived over the ages, it must be remembered that such panchayats were caste-based in composition, and they certainly were not elected bodies.

The head of the panchayat, the sarpanch, was the village headman, often the largest landowner and one who belonged to the dominant caste. While his decisions were accepted, that was a tradition of a bygone era. With one of the objectives of national independence being equality (enshrined in universal suffrage), efforts were made in the early days of independence to erase caste as an identity. In democratic India, then, why do we stick to the use of a term that has non-democratic connotations?

There have been reports in the media, especially on television, of cases where villagers have nullified inter-caste marriages and sometimes put the married couple to death. These have been decisions of village caste panchayats, not their modern namesakes, but the news reports often fail to make this distinction. On whom, then, does the onus of such behaviour fall?

Have we doomed LSGs to a dark corner of our history by the name we have given them? And do we use this word because in some corner of our mind they are not “government”? Should we not use the words “sarkar” or “shashan” instead?

2.5 Why is the structure so rigid, with multiple jurisdictions, for the country as a whole?

The Constitution requires that there be three levels of LSGs in rural areas. In urban areas, there are different classes of municipalities and city corporations. The state government plays an important role at each of these levels. In most states, one rung is dysfunctional. In Kerala, the gram panchayat counts, the block does not. In Orissa, historically the block panchayats mattered; the grams did not. This is true in other states too.

Why, then, such a rigid structure? Is it not an overdose of democracy, too much of a good thing, because there are elected people with no work to do, and who then unintentionally upset the system in a search for political relevance? Has the system, to bring in a conspiratorial note, been designed to malfunction because of over-regulation and a multiplicity of agencies created for a given set of functions? In the light of experience, is there not an urgent need for change?

2.6 Are LSGs a part of the legislative wing of government, or are they elected executive councils?

Political theory unbundles “government” into three branches—legislative, executive, and judicial. Each has its independent domain, and the system works well when each performs its role constitutionally. What are LSGs in this unbundling?

Traditional panchayats, as dispute-settlement mechanisms, had an accepted judicial role. Modern panchayats, created by the Constitution, do not have a judicial role.

Modern LSGs have no legislative power. Although they are compared to the state legislatures, whose creatures they are, they

are meant to help involve people in the implementation of development schemes. Thus, they are a kind of *elected executive council*.

Is this the reason why the elected representatives of LSGs are not part of the Electoral College to elect the president of India? Would not making them part of that Electoral College give them greater prestige?

Recently, in Karnataka, some presidents of gram panchayats wanted to file a writ under Article 226 of the Constitution on the manner in which the Suvarna Karnataka programme was bypassing them. The High Court refused to admit the writ on the ground that the president of a gram panchayat has no *locus standi*; it is the secretary who must file such a case. It would be appear that the elected head of an elected executive council depends on a civil servant who reports to the state government in this important matter.

Given that LSGs have no staff of their own, and that state government officials are deputed to work in them, have LSGs been appropriately designed for the functions they are to perform? If indeed function determines form, then there is a problem of institutional design here.

2.7 Why are reservations for women capped at one-third?

During the 1980s, foreign donors began to bring in some concepts that were relatively new to India. These were “people’s participation”, “ecological concern”, and “women’s empowerment”. In projects they funded, they wanted measures that would bring these concepts into operation. Civil-society organizations began to include these concepts in their programmes. Since many of these were government programmes, this rubbed off on the state governments as well. One effect was the inclusion, in the Karnataka Panchayat Raj Act of 1985, a provision for a reservation of 25 per cent of the seats in the newly created LSGs for women. This provision drew attention, and when the Indian Constitution was amended, it provided for a one-third reservation of seats for women. This was the result of the efforts of women’s groups. It went through because so many new seats were being created that the question of taking seats away from men did not arise. This historical fact has ensured that

such reservations have so far found no place in state legislatures and in the national Parliament.

Political parties were not putting up women as candidates for elections. Reservation was essential to give women an entry point to political office.

However, why not demand 50 per cent of the seats for women, or legislate that political parties must field women in every election? If we had two representatives per constituency, then it would be easy to ensure a 50-50 female-male ratio.

2.8 Why is devolution to the local level a decision of the second level—the state?

State-authorized devolution was necessary to get the political support required to pass the constitutional amendments. It is also possible that many lawyers felt, in light of a Supreme Court decision that the basic structure of the Constitution cannot be amended, that a shift from a two-tier federal structure to a three- or multi-tier federal structure might result in the proposal being challenged in the courts and getting delayed for a long time. It is commendable that the states have passed conforming legislation and held elections to LSGs across the nation.

The states, however, have created line departments that have been providing services to all parts of the state. These departments continue to work. Arrangements have been made to give LSGs some role, and this is a matter in flux. But this is the reality of India. It is the state legislatures and civil servants who have to take the decisions on devolution, which will remove many things from their jurisdiction. How this will evolve remains to be seen.

The key to progress for LSGs remains with the state government, and the states are not very keen today on substantial devolution.

2.9 Why are tax powers hardly used to raise funds?

In most states, LSGs do not take an interest in tax collection—even in collecting rates for the supply of utilities such as electricity

and water. Studies have shown that elected representatives in India take an interest in expenditures, but not in revenue generation, which they feel is the job of “the administration”. They are also reluctant to antagonize voters (to whom they are very close) by paying attention to tax collection. Given that the major expenditures are from devolved funds, it makes sense for local elected officials to clamour for more state funds than to collect local revenues. The absence of a budget process—formulation of projects, arranging funds for them, implementing these decisions, answering audit queries—means there is no institutional pressure to deal with this issue.

A hard budget constraint would change this situation because it would impose fiscal discipline. New expenditures would then mean a need for local officials to have at least some recourse to local funding.

2.10 *Why are elected representatives referred to as “non-officials” by civil servants in the state?*

The word “non-official” suggests a lack of authority, of legitimacy. It is difficult to argue that those elected to office have no legitimacy. It is also not likely that civil servants will give up the authority they have hitherto enjoyed at the local level. At the development block level, the Block Development Officer has been supreme. He sees no reason to give up the authority he has legitimately enjoyed simply because some people have been elected to office. Use of the word “non-official” is an ingenious—even if unconscious—way of marginalising them in day-to-day functions. Non-officials “interfere” while officials implement policy!

The use of this term to refer to elected representatives is symptomatic of the struggle for turf at the local level.

2.11 *Why is it felt that decentralization means little more than decentralising corruption?*

This has often been mentioned as a reason to oppose decentralization. Yet, the evidence on this issue is far from clear. There seems

to be good reasons to believe that corruption has decreased—or increased—in specific situations. *A priori*, it would appear that decentralization to LSGs is corruption neutral, that corruption depends on many other factors. And surely corruption is not limited to LSGs.

This argument is a good example of a red herring that avoids the key issues. Corruption has to be fought, but it need not distract from efforts to decentralize authority.

2.12 *Why is there conflict between some civil-society agencies and LSGs?*

This conflict has been noticed in many parts of India. Civil-society organizations (CSOs) have been involved in the implementation of development projects since the 1980s. Many CSOs work closely with the line departments of the state governments. Many line departments depend on these CSOs to help foster people's participation and to encourage and sustain local committees. These CSOs have felt a threat from the emerging LSGs, especially losses of turf and influence. That the LSG is a democratic, representative, constitutional body is lost in the local din.

CSOs need to be educated on this matter. CSOs have strengths when it comes to new ideas and innovation; they lack the reach and democratic character of LSGs. This conflict is another pointer of the changes in local society in India.

3. Three Key Issues for Debate

1. The Constitution created LSGs, but they are to take on functions that have till now been the domain of state government. There is, then, a question of a *traverse* to the new system from the old. This question of transition from the old to the new has not been debated adequately in India. We have assumed that with elections being held, the new system has not only come into existence, but is functioning too. Studies that compare implementation by LSGs with implementation by line departments make the mistake of assuming that LSGs are indeed implementing programmes.

How should this traverse be managed? What should be the focus of attention, and what can be kept for the future? How can elected officials assert their authority in this situation? What can India learn from the experience of other countries?

2. Capacity is lacking in LSGs. They exist after elections, but there is no clarity on their functions. Also, many LSG officials come into political office with no preparation. Training on a vast scale is essential, but so far, it has been lacking. How can capacity be built among elected representatives without trying to influence them in any given direction?
3. Institutional development, and insisting on procedures like a budget process, would help to build such capacity. If, at the beginning of the financial year, a presentation was made to the LSG by the elected member chairing the finance (or equivalent) committee, it would serve many purposes. It would bring together horizontally the various schemes relevant to the area and permit economies of scale and coordination. It would result in a sharing of information that would remove the asymmetries between civil servants and elected representatives. It also would force the elected body as a whole to debate finances and policies and, where necessary, to agree on local priorities. For example, if there is money for only three health centres, such a debate can help in the rational location of these centres. Today, such a mechanism does not exist in most LSGs. Sometimes, such practices in themselves help institutional development.

4. Cases of LSG Functioning

In terms of the involvement of the local population, gram panchayats in Kerala have a remarkable record. Not only have large numbers of residents been mobilized in this process, there have been extensive debates that have led to the writing of local histories. The result is well thought out plans of local development that form the basis for work over the next couple of years.

In Madhya Pradesh, gram panchayats and janpad panchayats played a very important role in implementing the Education Guarantee given by the state. The gram panchayat articulated the

demand for schools and helped find a teacher. The janpad panchayat verified these claims and appointed the teacher. The results speak for themselves—a more than 20 per cent increase in literacy in the 1990s in the state.

In West Bengal, in the late 1970s and early 1980s, the gram panchayats played an important role in the implementation of Operation Barga—identifying those who tilled land and registering their rights. Agricultural output has shown a dramatic increase in the state since then. Subsequently, in the late 1990s, in Midnapore, the panchayats played an important role in disseminating an innovative sanitation package that has become a model in the country.

In Karnataka and Maharashtra, gram panchayats took an interest in the proper collection of house taxes. The result was an increase of over 200 per cent on average in the own-source revenues of these LSGs. The base for implementing what they consider important has been laid.

In Gujarat, the Surat Municipality, after the appearance of plague in the early 1990s, turned around its functioning. It is today among the cleanest cities in India. The role of the municipality in this turnaround from a crisis situation has been remarkable.

In Bangalore, the city corporation has not only been able to respond to the queries of civil society on its budget, it now regularly releases quarterly information the citizens can debate.

5. Conclusion

This paper has examined federal systems at the local level in a framework of devolution. There is another view we have not pursued, that of village republics expanding outwards, delegating to upper levels what they cannot do. This is the Gandhian vision of the village republic. It is not necessarily utopian. Switzerland has cantons as the basic unit of democracy, and the federal government derives its authority from the cantons below.

Within the framework, the point for debate relates mainly to the transition from an existing way of doing things to a new way. Changing the law does not automatically change the way things are done. Power relationships are involved, and the implementation

of devolution has to be strategic. Capacity and institutions for effective LSGs are to be built. These are the challenges before LSGs, and a great deal has to be done. On this there was agreement at the conference.

Subtheme Paper

Governance of Megacities in Federal Orders

Boris Graizbord

Abstract

During the last half of the twentieth century, most countries experienced exceptional demographic growth. As a result, some traditional cities suffered physical expansions that flowed beyond their historic jurisdictional limits. A new urban form, the metropolis, became the locus of economic, social, and cultural life for more than half the urban population in both developed and developing nations. Metropolitanization produced a continuous urban landscape often characterized by social differentiation and administrative fragmentation. Given that many federal systems recognize the municipality as the basic unit of government, various questions should be answered in order to fully profit from the advantages that local governments offer in terms of flexibility, local democracy, and power of election. For one, how can federal systems respond positively to necessary intergovernmental relations (vertical and horizontal) in a metropolitan context? Second, how can governments best manage differences (demographic, social, and economic) among local governments within metropolitan regions? Third, how can governments and civil society establish the necessary channels for all local stakeholders to participate in the local public decision-making process? This paper presents preliminary ideas about answering the above questions and other related issues. It is divided into seven sections. The first describes the way cities are classified according to size and function. The

second raises the question of metropolitan fragmentation; the third tries to answer what is at stake in local public administration and management; and the next two sections present a few ideas about governance and local public services. The local finance section gives some information about decentralization tendencies and the capacity to generate local revenues. The last section touches on some basic issues of public participation.

1. New Urban Forms

The last half century was characterized by population growth and parallel urbanization in which city areas physically overflowed the jurisdictional limits of their original human settlements. Known as metropolitan growth—in which the urban agglomeration envelops various neighbouring administrative jurisdictions—metropolitanization has marked the landscape, affected the role of local and city governments, and modified the territorial organization of most countries in the world. The economic, political, and social impacts of these processes have been given wide attention, and new terminology has been coined to refer to these urban phenomena.

By *size*, cities with at least a million inhabitants are referred to as *millionaire cities*. Those over ten million inhabitants—or just with more than eight million, the size of London and New York in the 1950s—are conventionally classified as *megacities*. Geographically, these urban agglomerations might be identified as *metropolitan areas*. A metropolitan area includes one central city and a set of politico-administrative units (municipalities) that are incorporated if the continuous urbanized area covers part of their territory. The term *conurbation* refers to a spatial phenomenon in which the expanding urban area of a city absorbs spatially discreet townships and/or other built-up areas that were previously built independently.

By *function*, one refers to a *metropolitan zone* in which a local jurisdiction is included if it develops some interaction with the city centre or with an area already considered part of the metropolis. This interaction becomes relevant when it reaches a conventionally defined percentage of the labour force living in the local jurisdiction

that works in the metropolitan zone to which it is linked geographically. Thus, the region in which the city is located becomes a potential *hinterland* functionally interdependent with the central city; therefore, any metropolitan-zone demarcation is only temporarily valid because it is susceptible to incorporating additional neighbouring jurisdictions.

Based on this interaction criteria, it should be clear that even a small city, at least 50,000 inhabitants (a conventional figure), attracting a proportion of workers from a surrounding local jurisdiction can be considered a *metropolitan zone* and also, but not necessarily, a *metropolitan area*—if it meets the criterion of continuous urbanized area. A *city region* (or *metropolitan region* if at least two jurisdictions are involved) becomes a recognized functional unit if the population and economic activities in its hinterland, and the cities located within, are dependent to the central city. Strong economic complementarities among cities will form a *system of cities* and define a *functional region*.

Two or more functionally interrelated metropolitan contiguous zones will be considered a *megalopolis*—a Greek term adapted by the French geographer Jean Gottmann in the 1960s to describe the discontinuous urban complex of the north-eastern seaboard of the United States. The terms “*world city*”, curiously coined by Patrick Geddes in 1915 as recognized by Peter Hall, and “*global city*”, put into use by Saskia Sassen, refer to urban agglomerations in which the location of transnational firms’ command functions and related activities play an important role in the global economic order. The three prime global cities are New York City, London, and Tokyo, though others might follow in a hierarchical order as members of this club.

It is probably not necessary to go into more detail but only to insist on the complexity of these geographic phenomena relevant for environmental, economic, and administrative purposes. The demographic aspect is too important to leave aside. During the next half century, when the world’s population will reach a limit due to a drastic reduction in both birth and death rates—known as the demographic transition—most megacities, millionaire cities, metropolitan areas, and also megalopolitan areas will be located

in countries in the under-developed and developing worlds. It is expected that more than half of the total population in the world will be concentrated in such large agglomerations. At the beginning of this century, 500 million people, almost one in every ten inhabitants of the world, lived already in 35 megacities of which 20 were in Asia, 2 in Africa, 10 in America, and 3 in Europe.

The profusion of these huge urban agglomerations with a metropolitan-area status poses a challenge to federal orders, at least in terms of adequate institutional arrangements (“metropolitan governance”), subsidiary functions (“who does what, where”), and fiscal federalism (“income autonomy/dependency of local governments and/or metropolitan areas”). During the last 15-20 years, economic (and cultural) globalization, on the one hand, and the idea of place and locality on the other, have triggered new urbanization processes and a necessary recognition of new ways to administer and manage these new urban forms. However, there seems to be “no one answer”, as variations in metropolitan structure and governance reflect national values and context.

What are the salient characteristics of these new urban forms? What are the criteria to evaluate alternative structures? Which are the possible models for metropolitan governance? These are three questions that guide the following discussion.

2. Fragmented Metropolis

Most urban agglomerations entail a vast geographic scale and population and are also spatially dispersed but not necessarily in low densities. They are socially, economically, and politically complex and diverse; structured in dense, sometimes congested, interactive networks involving flows of information, goods, people, values, and money; highly polarized, reflecting differences in income and well-being; administratively and politically fragmented; spatially imbalanced in terms of economic and social infrastructure; functionally specialized in terms of local activities; and spatially heterogeneous.

In the face of these salient characteristics, what are the criteria for assessing basic alternatives in terms of public administration responses? In theory, institutional arrangements should be positively

evaluated both structurally and functionally if the following criteria are met or enhanced:

1. *Efficiency*: ability to capture economies of scale and scope in service provision and financing;
2. *Externalities*: containment of local service spill-over effects;
3. *Redistribution*: ability to achieve “distributive justice” in the allocation of social benefits and costs over a multiple set of differentiated jurisdictions;
4. *Responsiveness*: extent to which localized variations in consumer demand are met;
5. *Accessibility*: access by users to service provision;
6. *Accountability*: degree to which decision-makers can be held politically responsible for the impact of their decisions.

The policy analysis literature sees these criteria in conventional terms as *efficiency* and *equity*. But what problems are these new urbanization trends generating for government responsibilities at the local level? How can problems be managed; how can metropolitan areas be governed; how are organized civil society and citizens responding? These are interrelated questions.

There is little agreement on what the issues are, how to proceed, and whether to adapt local governments to these new urban geographies. Two extreme institutional responses are good examples of alternative solutions: Toronto’s *amalgamation* versus Los Angeles’ *secession*. Neither consolidation nor fragmentation as a principle of local governance organization is ideologically or politically neutral. In fact, in the American tradition, the idea of small, autonomous local governments finds a strong historical advocacy, but the argument in terms of the role of government is a permanent politico-philosophical debate between John Locke—who saw government as servant and as subordinate to the individual and a way of enhancing and protecting property—and Thomas Hobbes—for whom the state was to protect man from himself and his neighbours and thus act with few limits. In between, there are various other models of governance. In the context of metropolitan regions, the rationale is to respond to physical expansion, urban development, and service needs beyond municipal boundaries.

One position favours the creation of larger government units and service districts covering the metropolitan area; the other favours retaining smaller units for both government and service provision. A more recent policy issue is the shift (evolution) from public to private sector involvement in the provision and production of goods and services for multiple and differentiated clients.

Technological and economic exchanges emerging from recent transformations in the world economic system have triggered social and spatial trends affecting all urban regions of the world. But while in developed countries, the core city concentrates business activities and houses mainly the poor, while the rich have settled in the outer suburbs, in developing countries, a wealthy core is in general surrounded by the poor living mostly in illegal settlements. In the current geographical and economic conditions, metropolitan regions have developed as complex territorial units. As such, they are functional units and at the same time suffer from spatial, social, and administrative fragmentation.

In the context of a federal system, the administration and management of such metropolitan regions beg for strong inter-governmental relations (IGR), both horizontally among governmental entities at the same territorial level and vertically between its constituent parts (national, state, and municipal). An interesting example is Buenos Aires, a metropolitan area comprising a population of 13 million people. It includes the Federal District and 19 adjacent municipalities in the province of Buenos Aires. This fact gives the governor of the province a significant role because many public services are under the province's control. Argentina's legal framework does not allow for the creation of a metropolitan authority, but in any case, political differences and rivalries between the government of the city proper and the mayors of the surrounding municipalities would inhibit such an arrangement. However, provincial legislation does allow municipalities to create "consortiums" that can operate in connection with the national or the provincial government or among municipalities themselves. This legal authorization in the case of Buenos Aires has permitted private companies, civil-society organizations, and the business sector to

operate innovative management schemes, despite limited human and financial resources.

A challenging case is Bogotá, Colombia, with a population of close to 7 million and about 18 municipalities in close proximity. Regional coordination and common policies for development and urban growth have been difficult to achieve due to inappropriate institutional and legal frameworks, limited knowledge and consciousness of local leaders, administrative fragmentation, and, at the same time, an overlap in competences among different administrative agencies.

After years of military rule, newly elected democratic authorities under a new constitution saw a revival of local governance in Brazil. Sao Paulo, with 18 million inhabitants and 39 nearby municipalities, is a good but limited example of effective metropolitan government where the very different local authorities act collectively in a coordinated way. An example is the *Camara Regional do Grande ABC* covering an area with a strong political identity and more than two million people. Although this is only a limited initiative to create a sort of subregional governance aimed at improving the economic conditions of the area, its success is also limited due to problems of duplication of efforts, lack of coordination and financial resources, weak administrative and technical knowledge, and, most important, the absence of an institutional framework. Consequently, the whole experiment is dependent on the political will of the local authorities to implement policy decisions.

Mexico's capital city is another example. It is the third largest city in the world (after Japan's Tokyo-Yokohama megalopolis and Seoul, South Korea), with a population of more than 22 million. As a geographical functional unit, the metropolitan area includes the Federal District (DF, Distrito Federal), geographically subdivided into 16 *delegaciones* or local jurisdictions functioning as the equivalents of local authorities and as many as 58 municipalities in the neighbouring state of Mexico and one municipality in the state of Hidalgo. The DF, which physically contained Mexico City until the 1950s, houses in addition to its own government authorities, the federal government powers (including all ministries and

the other branches of the executive). Administered as a federal government agency until 1993, the head of the DF government is now directly elected by the residents and has a status similar to a state governor.

Already a metropolitan area in the 1970s, it reached megacity status when the outward sprawl intensified in the 1980s. Millions of daily commuters overflowed the city's transportation network travelling long distances and, worse, investing hours to reach their jobs, now distributed all over a vast megalopolitan region. In fact, the national capital became a complex regional megalopolis when the Mexico City Metropolitan Area (MCMA) "touched" at the end of the 1990s the metropolitan area of Toluca (the state of Mexico's capital city), more than 60 km (37.3 miles) to the west of the city centre.

In the face of these trends in Mexico City and, to a certain extent, in other cities in the country, the federal government responded in the 1970s by creating commissions to control urban growth and provide other necessary administrative coordination at the inter-state level. The activities of the commission for the Central Region (particularly oriented to the MCMA) practically ceased in the 1980s because it was showing only limited results. It was replaced by sector-specific metropolitan commissions. By the mid-1990s, in order to manage urban sprawl in the Valley of Mexico, the DF and the state of Mexico signed an agreement with the federal government's Ministry of Social Development (SEDESOL) to set up what was called the Human Settlements Metropolitan Commission. In 1998, a bilateral agreement to create the Executive Commission of Metropolitan Coordination was signed between the DF and the state of Mexico as a more comprehensive framework to coordinate, evaluate, and monitor plans, programmes, and actions within the metropolitan territory of the Valley of Mexico.

These efforts are obviously not unique. Many examples around the world are successfully in place combining different models (consolidated unitary metropolitan government or fragmented governance with voluntary or induced cooperation schemes) in efforts to manage metropolitan functions and growth. Toronto, as an extreme, abolished existing municipalities to create the City of

Toronto Authority. The Montreal Metropolitan Community (MMC) is another case in point, as are the Metro Council of Portland in the United States, the Stuttgart Regional Association in Germany, and a few others, not the least being the Greater London Authority (GLA) set up in 2000.

The most important example of a central government for a metropolitan area perhaps is the Greater London Council (GLC), a top-tier administrative body that lasted for more than 20 years from 1965 to 1986. The GLC was running strategic services and looking after population change, employment, housing, pollution, transport and roads, the central London business district, growth and development areas, urban open spaces and landscape, public services and utilities, and planning standards. This was obviously a strong manifestation of planning power and a reflection of socialist policies and Labour Party popularity up until the mid-1970s and again in the early 1980s. At the end in 1986, some powers were devolved to the city and the metropolitan boroughs, while others reverted to the national government. But again in the late 1990s, there were some efforts to re-establish a Greater London Authority that would not directly provide any services but carry out four strategic functions: transport for London (and administering the London “congestion charge”); metropolitan police; London fire and emergency planning; and the London Development Agency to promote development across London.

3. Local Administration and Management

The study of administration, management implementation, and public policy became, in the context of the “reinventing government” movement, fragmented and/or neglected. With growing social complexity, it no longer had the impact on decisions that had prompted the development first of public administration and later of public management. It was realized that government could do things only in part and that, without effective partnerships, it could not achieve the results it deserved. Close and active partnerships with non-governmental parties are needed to accomplish government’s purposes. But what is at stake for local authorities to do just that?

The local authority's main purpose is to improve social well-being by supplying public goods and services and also creating conditions for economic development. So, when referring to fragmented metropolitan structures, we are essentially thinking in terms of the geography (the influence of space and location) of local administration and, specifically, three basic issues: (1) the size and shape of the administrative areas used in delivering public services; (2) interactions among the areas; and (3) the spatial allocation of public services among and within areas. The first two necessarily refer to IGR. In the third one, we are additionally facing the problem in location-allocation models: the determination of optimal locations of central facilities in order to minimize movement and other costs.

There is a valid distinction between public administration, as related to establishing hierarchy and authority boundaries, and public management, which is promoting and limiting the exercise of government power and coordinating different agencies (and agents) and programmes in service integration. In this sense, public administration is also about managing—both promoting and limiting—the exercise of government power, in other words, the “what” and “how” and not less the “who” and the “where”.

The preceding concepts are certainly relevant to analysing a metropolitan region. An internal system of subdivisions and an associated division of administrative functions (not only at the national level) concerns emotional and political links between peoples and places. In the context of ethnic and cultural diversity, in a highly heterogeneous metropolitan region, based on cultural, political, and ideological, as well as socio-economic and demographic, not to mention geographic and ecological, differences, the goal of federalism—that is, the development of institutions that balance the centrifugal and the centripetal forces within the polity—is put into evidence: how to bind together the separate and diverse areas and interests into an effective whole?

4. Governance

The term “governance” has been a catchword in political theory and political science since the 1990s. It should also be prominent

in public administration. Governance has become a central issue in the face of the salient complexities posed by metropolitan areas to “the act or process of government”. Some of these complexities have been mentioned already; that is, metropolitan regions include vast geographical areas and large populations in patterns of dispersed but not uniformly low-density development; massive complexity with strong and dense networks of interaction, social diversity, and economic polarization with increased subarea specialization; and great political fragmentation and increasing infrastructure and social services imbalances affecting heterogeneous neighbourhoods, ethnic diversity, specialized commercial clusters, and diverse activity complexes.

Thus, “governance” is a way of describing the political, social, and administrative links between government and this broader environment. It is also a way of capturing the initiatives that governments deploy to shrink their size while at the same time meeting their citizens’ demands. While “government” is the portion of the activity that acts with authority and creates formal obligations, “governance” describes the process and institutions through which social actions occur, which might or might not be governmental.

Two broad uses of the term can be distinguished. Governance is related to (1) the nature of an organization, and (2) the nature of the relationships between organizations. In the first meaning, governance is a broader category than government; it recognizes how difficult it is for government institutions to be solely responsible for coordinating social complexity and steering societal development. In the second meaning, governance refers to the particular forms of coordination that involve networks and partnerships in contrast to top-down control. Four salient features are considered:

1. Interdependence between organizations covering state and non-state actors in the context of shifting and opaque boundaries;
2. Continuing interactions between network members because there are needs to exchange resources and negotiate purposes;
3. Game-like interactions based on trust and regulated by rules agreed to by network participants; and
4. A significant degree of autonomy from the state, which does

not occupy a sovereign position but, instead, indirectly and imperfectly steers or heads networks.

In this context, there are some alternative models for the governance of metropolitan regions.

One model is, of course, *doing nothing*. The other is *privatizing* all or some functions that cross local jurisdictions. In between, there are examples of centralizing efforts and of maintaining the decentralized pattern of multiple local authorities. The spectrum is wide:

1. Centralization of power and of administrative functions (service delivery);
2. Annexation of new or already built-up areas;
3. Amalgamation or merger of city and suburbs, two or more adjacent cities, or city and county;
4. Creation of regional authorities, either a single multifunctional one or several special-purpose agencies;
5. Establishment of a formal two-tier government structure with members appointed or elected to it; and
6. Partnerships or associations (either voluntary or promoted and ad-hoc or permanent) between or among local authorities, between local and state governments, or between local authorities and private agencies.

The last two appear to favour retaining smaller units for both government and servicing, while the first four options support the creation of larger government units and service districts on a metropolitan scale.

5. Local Public Goods and Services

In a metropolitan area, local authorities face various challenges when trying to deliver public goods and services. “Pure” public goods, by definition, no matter if they are produced by private contractors or companies, are non-divisible, non-rejectable, and non-exclusive. But few goods fall into this category due to difficulties in ensuring equal provision. Most public goods and services are “impure” because they are provided at fixed locations or along fixed routes where use declines as distance increases from the routes.

Hence, they are related to accessibility; therefore, location becomes an issue. Another “impurity” besides location relates to density of provision. Local governments usually provide these services but their provision differs not only in how much is spent on a service but also in the scale necessary to reach viability in providing a service. These factors affect the decision as to whether the service is offered by a local government.

Geography (space) matters in terms of access to public goods and services, due to:

1. Jurisdictional or territorial fragmentation (including, among other aspects, economies of scale in producing public goods and services) and consequent inequalities or “tapering effects” in service provision levels between local areas, which means that the utility of public services is a function of distance;
2. The fixed location of some public services; and
3. Externalities (negative or positive) generated by the presence of a service either in a fixed location (e.g. parks, hospitals, libraries, and highways) or in terms of differences between areas (a) originated by historical, political, or organizational factors or (b) imposed upon areas by desirable or undesirable aspects of service infrastructure because locating services has unproved impacts on other neighbourhood areas.

If coordination problems are to be solved, there is a need for intergovernmental relations based on trust among municipalities (contiguous or not), between the state and municipalities, and between these and the federal government. Such trust-based coordination is essential for efficiency, equity, and distributive justice. This means that no matter where people live in a metropolitan area, a just territorial distribution of income will be secured in order to meet their local needs. This, of course, poses the problem of minorities and special merit cases, another argument in favour of local differentiation. In some cases, especially those arising from welfare policies, the states or provinces rather than the municipalities are the right units of government to internalize spillovers. These might be cost-side spillovers, when significant mobility of lower income families occurs between cities and within metropolitan

regions, or benefit-side spillovers, where there are possibilities that populations in neighbouring areas benefit from measures directed to groups in adjacent municipalities.

Efficiency problems in the provision of local public goods and services are related to (a) duplication of public services and infrastructure when each municipal authority, in trying to comply with its responsibilities, feels it is necessary to provide all services possible, even in an inefficient or partial way; (b) the need for some services to reach a certain scale to be economically viable and efficiently produced, thereby disadvantaging some municipalities due to their population size; and (c) over demand for a public service by a neighbouring population when neither they nor the consumers to which the service is offered will benefit because the quality and quantity levels are affected by an excessive demand not considered originally.

Problems of equity are inevitably related to financial matters because quality levels of public services vary between jurisdictions. Needs are not met when the fiscal base of a poor municipality is not big enough to secure the provision of services at expected levels and qualities.

Finally, “to do the job” is not possible even with enough resources when coordination within the local government or among local authorities is absent. The provision of some public services requires some coordination, if not a formal body. For example, are environmental protection, metropolitan transportation, and solid-waste management to be regulated at an intergovernmental level by a metropolitan governmental entity or by an *ad hoc* commission? That is a major question. But all these problems will not be tackled if the local authorities are not able to increase their material, financial, and human resources.

6. Fiscal Federalism and Municipal Finances

The link between subnational inequalities and fiscal federalism is important. A good example is Mexico, a country of great regional disparities. In 2000, the central and northern states enjoyed a per capita income twice as large as that in the southern states. The most

dramatic difference was between the Federal District's income per capita and the rest of the states: 1.4 times that of Nuevo Leon, the second richest state in the country, and six times that of Chiapas, the poorest state. Such differences seem to have been increasing since the 1980s.

In Mexico, around 50 per cent of ordinary federal income is every year transferred to the states, representing approximately 85 per cent of their annual total income. This is equally true for the municipalities. For some poor rural municipalities, federal transfers and subsidies (*participaciones federales*) represent more than 80 per cent of their income, while the total federal funds transferred to municipal units represent no more than 6 per cent of the yearly federal tributary income.

It is important to recognize, however, that national programmes like *Solidaridad* (PRONASOL), launched by the Carlos Salinas administration in 1988, and more recently *Oportunidades*, an offspring of the Vicente Fox administration, along with efforts to increase transparency and accountability—insisted upon by the present administration of Felipe Calderón—have been effective in supporting an increment in total income being directed to, and also collected by, local authorities.

In some cases, urban municipalities have been able to break this dependent situation. This has been done by increasing their local property taxes, instituting more efficient tax collection, or imposing an increment in charges for public services (mainly for water and sanitation). In fact, federal transfers, paradoxically, have inhibited urban municipalities from augmenting their local revenues, particularly in municipalities located in the large Mexico City metropolitan region.

In general, the fiscal-transfer system has promoted biased results favouring states rather than municipalities. Furthermore, while the federal government reduced the percentage of total subsidies directed to the Federal District from 23.4 per cent in 1980 to 12 per cent in 2000, the change only favoured states with consolidated urban markets over states with predominantly agricultural economic bases. So, it is fair to conclude that this fiscal instrument, while responding to decentralization principles, did not reduce

regional inequalities during the past two decades, even though the resources directed to and generated by local authorities experienced a real increment. During 1994-2001, total municipal income nationwide increased more rapidly than that of the Federal District, which in 1996 and 1997 was exactly the same as that of all municipalities. However, the municipalities' total income grew despite the slow growth of the country's GNP.

It is true that expenditures on public services that maintain and enhance a city are largely the responsibility of local government, but the nature and scope of the local government functions depends not only on the size of its population but also on the degree of autonomy local governments have in the political system. In fact, the weight of federal transfers is such that local authorities are subject to the priorities of the state and federal governments. Furthermore, state and federal executives can exercise their discretionary powers to allocate funds as well as investments to certain municipalities.

A different picture emerges when local authorities are able to generate direct revenues within their jurisdiction. In a comprehensive study that examined governing issues in metropolitan areas in the United States, a two dimensional scale was proposed to identify the competitive positions of municipalities in metropolitan regions. It measured on one axis the way a citizen as "voter" would see the rate of taxation affecting him/her and, on the other axis, the appreciation he/she might have as "consumer" of the resources available. The case of low taxes and high resources available was thought as ideal, while the opposite as undesirable, but the other two possible cases in this model seemed paradigmatic and so could be applied to other contexts. The rates of taxation, as well as the availability and provision of public services, are highly differentiated in the metropolitan context. Some municipalities are characterized by low taxes and others by high taxation, and some by low and others by high resource availability. These differences are attractive to some citizens and can trigger a process of metropolitan residential mobility whereby family units migrate to regions that have become more appealing. Those local governments well placed on the two axes change for the better in a faster mode than those

more stressed by improving their revenues via the property tax. This fact enables these municipalities to address their citizens' preferences for non-care services, that is, public goods and services that enhance their quality of life, going beyond administrative overhead and the provision of basic services.

The set of standards exemplified in the previous description when evaluating local governments' performance as building blocks of a metropolitan region would include, therefore, not only the efficient delivery of public services but also, and even more important, the creation of a competitive region to attract human and economic capital. An additional ingredient for metropolitan governance is active citizen participation.

7. Representative Democracy and Participatory Citizenship

Political representation and citizen participation are two conditions of governability at both the local and the metropolitan levels. These are related to political equality and institutional development as well as to democratic principles such as (a) free, fair, and frequent elections; (b) freedom of expression; (c) free access by citizens to views other than those of officials (alternative sources of information); and (d) full freedom for political organizations to form and engage in political activity.

In this context, the two basic conditions/expressions of the relationship between those governing and those governed need due clarification.

Political representation. The degree to which civil society in general and neighbourhood organizations in particular are represented in city governments and bureaucracies and how they are perceived and their demands considered by key decision-makers are crucial elements in explaining different institutional arrangements and also differential outcomes. This is necessarily an empirical question and begs for specific local studies in which citizens' and social groups' practices could be addressed positively.

Citizen participation. In the context of a metropolitan region in which municipalities and state entities are governed by different political parties, the way neighbourhood organizations and their political participation in general are accepted will vary according to the ideological principles of the local administration. Also, the possibilities of entering the planning process will be different vis-à-vis the way the authority, being controlled by one party or another, understands the process and is open to urban practices. Unfortunately, in some cases, the public-private divide is being understood more in terms of regulation, while the role of the community as participant in the provision of services (especially in health care and education, though also in housing) is becoming less important. These trends should be considered when looking at metropolitan regions and at the possibilities of coordination and cooperation among the various actors or stakeholders that are present with different roles in the neighbourhood, municipal, and metropolitan arenas.

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**ANALYTICAL
SUMMARIES OF
WORK SESSIONS**

Subtheme

Enhancement of Democracy through Empowerment of Disadvantaged Groups

Work Session 10: To What Extent
should Local Governments
Lead in the Empowerment of
Disadvantaged Groups?

Work Session 22: Are Local
Governments Really Enhancing
Participatory Decision-Making?

Arif Ali Khan

1. Local Governments and the Empowerment of Disadvantaged Groups

Local government plays a critical role in enhancing democracy in federal systems. It has the potential to bring government closer to the people through both representative and participatory democracy. A key challenge however remains the extent to which local governments are autonomous and the extent to which they are inclusive of all communities with regard to both its composition and decision making. Indeed, local government is often not inclusive

in terms of political representation or decision-making, resulting in policies and actions that often do not address the needs of disadvantaged groups, including women. These issues were highlighted by Vilasrao Deshmukh, the Chief Minister of Maharashtra as a precursor to discussions at the session. The case presenters provided detailed discussion of various schemes/actions undertaken by the respective governments to ensure that the disadvantaged groups, especially the women are brought under the purview of the federal democratic setup as beneficiaries.

The Ethiopian presenter provided an overview of efforts to empower disadvantaged groups, including women, under the new constitution that established the Federal Democratic Republic of Ethiopia (FDRE) in 1995. The federation is made up of nine autonomous states that are delimited on the basis of settlement patterns, language and identity. The constitution favours decentralization to regional states, which in turn have further devolved authority to lower levels of government to provide services to communities—notably with a view to making government work better for disadvantaged populations. In rural communities of Ethiopia, ensuring women's participation in the development process has raised particular challenges. However, Ethiopia's performance in bringing women's voices into national decision-making has improved significantly in recent years: 21 per cent of seats in the House of Peoples' Representatives are currently occupied by women, a threefold increase from the previous national legislature. Notwithstanding the fact that it is too early to announce the success of Ethiopian federal republic in empowering the disadvantaged population, one cannot ignore the sincere and laudable efforts by the Ethiopian authorities in ensuring the women's participation in the decision-making processes.

The Secretary, Ministry of Panchayati Raj, Government of India, one of the Indian case presenters, spoke about the Indian constitutional amendments of 1992, which enshrined local governments as the third tier of constitutionally recognized government, has played a significant role in enhancing the local level participation in decision-making as well as representation of the disadvantaged lot. In India, entrenching local government in the constitution

was seen as vital for the mobilization of local resources for development. Since constitutional amendments in 1992, India has made significant progress in enhancing the political representation of women. A third of all seats in the panchayats (rural local authorities) and urban municipalities must be reserved for women. This quota also applies to the head of all local bodies. As a result, out of 3.2 million members elected in local authorities, more than a million are women. The Indian Constitution also provides that seats in the local government structures must be reserved for scheduled (backward) castes and tribes in proportion to their share of the total population of the local area. State legislatures are also empowered to provide for the reservation of seats for so-called “backward class of citizens”. At the end of her presentation, she urged the participants to advise their respective governments to have an inclusive policy with clarity on power sharing.

The second case presenter from India the Principal Secretary, Ministry of Rural Development and Panchayati Raj, Government of Kerala, presented his experiences and views from the state government’s perspective on empowering of disadvantaged groups, entrenching local governments, empowering women. The Kerala government has been doing a commendable work to ensure public participation in governance system to facilitate empowerment by introducing innovations like participatory budgeting and a social audit, among other steps.

The cases from South Africa and Canada were presented after the Indian cases. The issue that seemed to be overlapping in both presentations was the attribute of multiculturalism. The disadvantaged groups in both the countries have been constitutionally protected in the federal framework but the intrinsic gap is still visible in practice and implementation of government policy and law. In addition to this, the Deputy-Chair, Financial and Fiscal Commission, South Africa highlighted South African efforts to involve women at the local level. In South Africa, it is a statutory goal that all political parties should seek 50/50 representation of men and women. Although this is not an enforceable requirement, the African National Congress (ANC) has adopted this policy, ensuring that 48 per cent of all their candidates in the 2006 local government

elections were women. Among elected councilors, 46 per cent of the ANC members were women, with the overall percentage for all councillors standing at 40 per cent. However, only 15 per cent of South African mayors are women. South Africa has also established a committee of citizens in the ward of each elected councillor to ensure an effective channel of communication with their municipal council. This system is intended to ensure that diverse interests are taken into consideration through an informal political process. The ward committees, chaired by the ward councillor, consist of a maximum of ten members who must be chosen in such a way as to ensure equitable representation of women as well as the diversity of interests in the ward. It is very much evident from her presentation that though involving women is not an enforceable requirement, a few or rather only one political party has shown the intent as well as the political will to ensure the empowerment of the disadvantaged groups, especially women. There are several examples regarding this; take India's example, at the local level some improvement can be observed in terms of representation of women, but at the federal level the decade-long debate on reservation for women in the lower house is an issue of the lack of political will amongst the political parties. So as to achieve the representation and empowerment of the disadvantaged lot, the governments and more importantly the political groups constituting the governments and otherwise have to be sensitized about the inclusion of these groups without which the success of the federal democracies is incomplete and partial.

While Canada is generally accommodating to an active role by its diverse communities—including its numerous recent immigrants—in the political life of the country, the Canadian political system has traditionally eschewed targets for representation of different groups in their respective legislatures and executives, whether at the local, provincial or federal level. As a result, it is often said that Canada's performance in ensuring representation among some groups—notably women and Aboriginal Canadians—is not as good as it should be. The presenter from Canada, who is the President of the Indian Taxation Advisory Board, points out that women have been slightly more successful in achieving elected office at the local

government level than at the provincial or federal level. At 21.7 per cent, Canada's municipal councils have a higher percentage of women than the House of Commons (20.7 per cent). Among Canada's ten largest cities (representing half the country's population), women currently occupy 28 per cent of council seats and five of these ten cities have 30 per cent or more women on their councils. The Federation of Canadian Municipalities (FCM) has also adopted a strategy aimed at increasing the participation of women in the municipal politics to 30 per cent by 2026. According to the definition of the United Nations, 30 per cent is the minimal percentage of women required for government to reflect women's concerns. As per the documents of the Federation of Canadian Municipalities, women represent 12.9 per cent of mayors and 22.9 per cent of councillors in Canada, for an average of 21.4 per cent, and a total of 5,242 women out of a total of 24,542 mayors and councillors. The current data shows that Canada would need 2,120 more women in elected office at present to reach the 30 per cent target; meaning increasing the number of women in municipal government by roughly 100 every year for the coming 20 years. To support this effort, FCM has developed a set of strategies and tactics that municipal councils can use to further the involvement of women in municipal government. These strategies need the women to be proactive in making the FCM women concerned institution; advocating, educating and communicating to the women, starting campaign schools, ensure equality, recruit women, adjust electoral terms, promote respect, encourage employer support, highlight women's contribution, making gender mainstream.

The situation with regard to Aboriginal representation is also not as problematic as suggested in the background paper prepared for the conference: the paper asserts that Aboriginal people are under-represented in local government in Canada and that "not only has this group suffered from a lack of political representation, but they have also been marginalized in terms of service delivery". In support of this, it cites a study of eight municipal councils located in areas with a high indigenous population (ten thousand or more), only 6 of the 36 elected officials were aboriginal constituting just 17 per cent. However, in 2001, there were only ten cities

in Canada with a population of ten thousand or more Aboriginals. In these cities, the Aboriginal population was on average less than 2 per cent of the total population and it exceeded 10 per cent in only one city. From this perspective, it does not appear to be the case that Aboriginals are under-represented in local government in Canada. Many municipalities also have consultative structures in place to channel the concerns of diverse minorities to the elected officials, such as ethno-cultural minorities (many of them recent immigrants to the country). It is also not uncommon to see affirmative action programmes targeting employment within local government, particularly in sensitive areas such as policing where ensuring a representative police force can be crucial. Many municipalities also provide their services in more than one language. For instance, Toronto's emergency services are equipped to respond in over 150 languages.

This session has brought out a lot of issues which can be helpful for the practitioners of the participating countries to evolve mechanisms to empower the disadvantaged and women at the local-level leading all the way to other levels too (India can draw out a lot in that respect). There is a pressing need to have a clear legislative mandate for the entrenchment of local governments (e.g. 73rd and 74th Amendments to the constitution in the Indian case) in the respective federal countries. These countries have to seriously devise techniques to clearly demarcate the financial and political powers of local bodies, because a lot depends on the financial powers alongside the political powers. The case of India is particularly instructive, where local governments have all the political powers mandated to them but for the financial side they still lack the resources and end up wanting for the same (since the state governments have the financial powers). Private sector and NGOs can play greater roles in minimizing the gap in representation of the under-represented and the over-represented. The Canadian example; the FMC's efforts to involve more and more women can be seen as a stepping stone towards the empowering of the disadvantaged groups, especially the women. Above all the discussion in this session and the participants too seemed to be optimistic towards the empowerment of these groups with a special emphasis on women.

2. Local Governments and the Enhancement of Participatory Decision Making

In many federations—notably in developing and middle income countries—local government is viewed as an increasingly important forum for developing and maintaining a self-sustaining democratic culture and for ensuring legitimacy of national institutions. There is a growing realization in these countries that decentralization of power to local governments—coupled with reinforced participation of the public and stakeholders—is crucial to the development process. Empowering local governments nevertheless involves certain challenges of balancing an appropriate degree of autonomy against the risks of an over-complex system of decision-making and blurred lines of accountability to citizens. Brazil is a recent example of both re-democratization and decentralization to local governments and communities (the independence of its state and municipal levels of government were guaranteed in its 1988 constitution). Entrenching local self-rule was seen as vital for the mobilization of local resources for development. There are two main mechanisms in Brazil for ensuring local participation in decision-making. They are: Community Councils (in which representatives of local inhabitants and/or service users have a seat) and Participatory Budgeting. Community Councils are often required by federal legislation (or, in some cases, by international agencies financing particular programmes) or by multilateral organizations when they finance a programme. Community councillors' main role is to control the use of funds and take minor decisions about their allocation. Participatory budgeting (PB)—pioneered by the city of Porto Allegro in 1989—enables ordinary citizens to deliberate and collectively make decisions about local budget allocations. By 2000, PB had been adopted by over 140 municipalities of Brazil's 5,000 municipalities and was said to have involved around 30,000 people.

The Mexican constitution has recognized local government as a third order of government within its federal structure since 1983. Since full democratization in 1996, elections at the local level come under the jurisdiction of an independent Federal Electoral Institute (IFE), whose decisions can be appealed to a Federal Electoral Tribunal. In addition to this the President of Senate Commission

on Federalism and Local Government in Mexico, spoke about how democratization with significant decentralization has gone hand in hand, raising issues of regarding coordination between governments. Local governments continue to be relatively weak relative to the senior orders of government in terms of policy-making and administrative capacity, as well as in terms of its access to autonomous revenues.

In its 1848 Constitution, Switzerland established a system of three layers of government: (i) the communes (numbering nearly three thousand) at the local level, (ii) the 26 cantons at the regional level, and (iii) the Confederation, at the national level. Direct democracy is the defining feature of Swiss federalism at all three levels and explains in large part the important role played by communes (and by cantons) as the laboratories of innovation in public policies and management: Referenda have long been provided for in the federal and most cantonal constitutions to enable citizens to take part in the decision-making process on all important political and economic issues. Direct democracy is also a long-entrenched feature of the communes, taking different forms in different communes, reflecting their particular histories and circumstances. The presenter, a Member of the Federal Parliament from Switzerland quoted the example of Berne where people vote directly for the financial matter and on other important issues. In particular, the form of direct democracy tends to vary by size of commune (which vary from a few hundred citizens to more than a million): Large communes (like the cantons and federal government) include the right to referendums and initiatives in their constitutions. In many smaller communes, important decisions are commonly made by the citizens themselves at public meetings. While communes also have legislative and executive councils (i.e. instruments of representative democracy), citizens organized in public-interest groups also exert significant influence on councils' legislative and executive decisions due to their ability to launch referenda to, in effect, appeal those decisions to the citizenry. Participation by citizens in local decision-making remains vigorous.

This session brought out certain interesting features of these federal democracies in providing space for participatory decision-

making. The important highlights of this session can be summed up as; linkages between participatory democracies, transnational participation, raising revenue for the functioning of local bodies, more autonomy is sought for the local bodies and above all political awakening of the masses at the grass roots level. The lesson emphasized by Swiss participants is that participatory decision-making is about democracy and empowerment and the ballot box should not be seen as a mere mechanism to elect presidents, vice-presidents, or mayors.

Subtheme

The Functioning of Local Governments in Federal Systems

Work Session 11: Should Local
Governments be Constitutionalized?

Work Session 23: Do Direct Federal-
Local Government Relations
Undermine Federalism?

Y.A. Kapur

1. Constitutionalized Local Governments

Constitutionalism is the universally accepted, and probably the most essential feature of federalism. As system of governance, the first premise of federalism is the codification of state-society relationship in order to provide democracy a constitutionally protected and documented space to safeguard the interests and integrities of both polities and societies. In such a process of codification, it is quite logical that the units of governments and administration not only have a constitutional sanction of prerogatives, but also they have a constitutional origin.

Having constitutional origin and sanctity amounts to continued existence of local governments. This is not possible when they

are the creation of any other tier of government. They do not have to depend on the political will of the federal or regional governments. Constitutionalization of the local government has manifold advantages so far as the federal governance in multicultural society is concerned. We should not be oblivious of the fact that the local government in a multicultural context is an exercise in self government of the people. It is a process through which institutionalization of diversity takes place. Also being a part and parcel of the process of decentralisation or non-centralization, it is always imperative that the units of administration have constitutionally defined ambit of powers and functions.

As the order of government closest to its constituents, local governments are often best-placed to deliver services customized to local preferences and conditions, as well as provide opportunities for enhanced democratic participation in local affairs and for innovation. The status of local government varies by country. In some federations, local governments have constitutionally entrenched authority; in others, local governments are creations of provinces or states and subordinate to their authority in many or most areas. With increasing urbanization, local governments play a growing role in the lives of citizens, and are taking on greater responsibilities—though many argue they lack the fiscal levers and other sources of authority they need to do so effectively. Most participants were of the view that the constitutional entrenchment of local governments help them better realize their democratic potential and meet their responsibilities, even though this would add a further layer of complexity to intergovernmental coordination in federal states. Of the three cases considered—Brazil, Canada and India, except Canada the other two countries constitutionally recognize the existence and role of local governments as a third order of government.

In Brazil, local government is constitutionalized under Article 18 of the constitution as one of three autonomous levels of government: the Union, states and municipalities (which number over 5,500). Each municipality is thus autonomous within its own jurisdiction and hierarchically independent from the other levels. The Constitution under Article 29 sets out detailed rules for municipal governance. Each local government is expected to have a

legislative council, a mayor and an “organic law” (municipal constitution) approved by a qualified majority of its council. Articles 153-159 also identify the taxes available to municipal (and other) levels of government and procedures for the sharing of tax revenues between the Union, the states and municipalities.

In Canada, all legislative powers are constitutionally assigned to the federal and provincial orders of government—with responsibility for municipal affairs falling under exclusive provincial jurisdiction. Municipalities are thus subordinate to provincial governments: the only sources of authority and revenue available to them are those specifically granted by provincial legislation, and their boundaries and powers can be altered by provincial legislation. As Canadian cities grow in size, they are taking on greater responsibilities—and many have argued that they lack the fiscal and other tools they need to meet those responsibilities. Problems are particularly pronounced in Canada’s major metropolitan regions which now house the majority of the population in some provinces. As a result, the umbrella organization for Canadian municipalities (Federation of Canadian Municipalities) has sought constitutionalization as a way of securing guaranteed access to the fiscal resources needed to meet their responsibilities. Those opposed to conferring constitutional recognition or powers on municipalities argue that this would add yet another level of complexity, thereby increasing the existing challenges to intergovernmental relations.

Since the process of constitutional reform in Canada is quite complex—the general amending formula requires the consent of Parliament and of seven of ten provincial legislatures representing at least half the country’s population—many Canadian municipalities have also been pursuing alternatives. These measures include, lobbying for greater fiscal transfers from both provincial and federal governments, particularly in areas of infrastructure; and pressuring provincial governments for legislative changes to the provincial-municipal relationship. While all of these efforts fall short of fundamental constitutional reform, they represent pragmatic approaches for local governments to cope with increasing responsibilities. An additional facet of local government in Canada is the Aboriginal “First Nations”, who have demanded recognition as a third order of government in line with the Constitution Act, 1982 which

affirms “existing aboriginal and treaty rights”. Several Aboriginal groups in Canada have self-government agreements that would be constitutionally protected and that would effectively entrench concurrent powers to enact laws and regulations of a local nature for the good governance of their land. Many more groups are in negotiations to obtain these same rights.

The 73rd and 74th Amendment to the Constitution of India is a milestone in the process of establishing democratic decentralized administration through local bodies. The amendment suggested a list of twenty-nine subjects to be transferred by the states to the municipalities. While these changes (which required state legislation before they could come into effect) are not mandatory, they have been substantially implemented by all states. Later amendments (in 1996) have also extended provisions for autonomous councils to tribal areas, notably in the north-eastern part of the country. It has been a decade since the passage of the 73rd and 74th Amendment, which empowers panchayati raj institutions (rural) and urban municipalities as bodies of self-government. The amendment generated lots of hope and enthusiasm throughout the country as it was looked upon as a bold step towards strengthening democratic and decentralized governance in rural areas. But the process has not been as successful as it was expected. In particular, capacity issues remain with respect to transfer of funds, functions, and functionaries to panchayati raj bodies across the country. States have been reluctant to abdicate responsibilities and provide unconditional funds to local governments. So while constitutionalization has certainly provided a place for local government in this multi-tiered federation, numerous factors continue to hinder its successful implementation.

2. Federal-Local Government Undermine Federalism

The classical—legal approach to federalism conceptualizes a dual polity where each unit is independent and autonomous of other; usually federal and state. As the local governments across federations have assumed critical significance in the context of public policy management and they have proved to be effective instruments of

strengthening of democracy, development and good governance, it may be necessary for federal and local government to deal directly with one another.

The debates in this session revolved surrounding the potential for marginalization of states/provinces and the consequent strengthening of federal or central authority due to a perceived weakness on the part of local governments. Generally the local governments are the creations of the regional governments which devolve powers, functions and authorities on them. Any such direct federal-local relations must also protect the authority and autonomy of the regional governments. Given the complexity of the issue, the best practice that is now emerging is maintaining autonomy balance among the three layers on functional-index basis, where collaboration is functionally elaborated and legally codified. Each layer retains the autonomy of decision and action on mutually agreed distribution of competencies.

In practice, the federal or central governments of some countries—particularly those pursuing devolution and decentralization agendas—have sought to influence the design and governance practices of local governments and to strengthen them (sometimes at the expense of their states and provinces) with a view to achieving particular development objectives. This is because even where local governments are constitutionally entrenched, capacity imbalances between them and other orders of government put the former at a disadvantage.

The Indian presenters highlighted their country's recent movement from a highly centralized form of federalism in recent years toward a more decentralized model. This has included constitutional amendments adopted in 1992 that have significantly empowered local governments. Prior to them, local governments effectively functioned as agencies of state governments within a two-tier federal structure. As a result, India now has more than a quarter million local government jurisdictions—the vast majority of them “panchayats” at the village level, with only about 3000 local governments in urban areas.

While state governments are expected to provide their local governments some tax and fee raising capacity (and share some of their own revenues with them) under the country's Constitution,

most have been reluctant to do so, leaving many local governments with limited flexibility or autonomy in the provision of local services.

The presenter for Bosnia-Herzegovina noted that Bosnia is a very decentralized federation of two ethnically-based entities—a Bosnian-Croat federation and the Serbian Republika Srpska—established by the 1995 Dayton Accord that formally ended the Bosnian civil war. The central government gained more fiscal independence with the introduction of a new value added tax (VAT) in January 2006, but generally remains weak, with limited fiscal and other responsibilities. The two main entities—and, to varying degrees, their respective cantons and municipalities—retain a high degree of autonomy, enabling local officials (mayors, police officials, etc.) to exercise a great deal of authority. Local government is organized differently in the two entities:

- Republika Srpska is more centralized: its only subdivisions are individual municipalities.
- The Bosnian-Croat federation’s municipalities are grouped into ten cantons, each of which has a more substantial government structure (e.g. its own prime minister and other ministers).

Given its general weakness, the country’s central government itself has limited involvement with its local governments. However, the High Representative for Bosnia and Herzegovina (a post established in the Dayton Accord to serve as the country’s *de facto* governor) continues to exercise significant powers. In practice, the High Representative has frequently intervened—at the level of local government, the two entities and for the country as a whole—to press (or impose) needed reforms and policies in the wake of an intercommunity (and sometimes intracommunity) political vacuum. The central role played by the unelected High Representative has led to criticism that his continuing role contributes to a culture of dependency, preventing representatives of the different Bosnian communities from coming to grips with the common challenges facing them by developing governance capacity at all levels of government within the country.

The Nigerian presenter mentioned that there are 774 constitutionally recognized Local Government Areas (LGAs) in Nigeria.

Both states and local government authorities are assigned responsibility for the delivery of basic public services in Nigeria—though there is no clear demarcation between the respective roles and responsibilities at the states and local level.

Given the country's overall reliance on petroleum revenues as a source of government funding (both at the federal level and, through large transfers, at the state and local level), local governments in Nigeria make very little use of own-source revenues and, in both law and practice, have limited access to both tax revenues and non-tax revenues, such as user fees (the ability to generate revenues from the latter source being limited by the poverty of many of their residents).

The fiscally centralized nature of Nigerian federalism—reflected in large petroleum-financed federal transfers that flow to both state and local governments—gives the federal government significant influence over them, leaving them with minimal autonomy.

Indonesia, though not a federal country, has significant decentralization of responsibilities to local governments—by-passing the provinces (several of which are home to secessionist movements) and may be cited as an example of a close relationship between central and local governments as undermining the “middle” (state/provincial) level of government in countries with multi-level governments.

Canada's provinces have exclusive jurisdiction over municipal affairs and exercise significant authority over their local governments (which remain “creatures of the provinces”). As a result, the federal government has historically had limited direct involvement with local governments. While the federal-municipal relationship remains modest, it has developed somewhat in recent years—generally with the support of provinces—given:

- Canada's high degree of urbanization;
- the growing importance of cities in fostering economic growth;
- and

the importance of key federal policies (notably in the areas of immigration, housing/homelessness, the environment, trade and commerce, and transportation infrastructure) to those cities and the provinces in which they are located.

Subtheme

Governance of Megacities in Federal Orders

Work Session 12: How is Governance
and Service Delivery Organized
in Megacities?

Work Session 24: What Forms has
Governance of National Capital
Regions Taken?

Robert Young

1. Introduction

The term “governance” refers to the institutional structures and mechanisms of government on the one hand and to the patterns of relationships between citizens (and organized groups) and policy makers (both officials and politicians) on the other hand. The use of the term is growing because complex and rapidly changing societies are witnessing a new interpenetration between the state and civil society. State actors need information and help in policy implementation, and for these contributions from social actors they exchange some access to participation in policy formation. Citizens experiencing rapid change make new demands about how state resources should be deployed, and now have democratic expectations about being

able to influence decisions. In the Work Sessions on which this paper is based, participants focused on both aspects of governance, concentrating on structures and mechanisms in the case of capital cities and issues about democratic participation in the case of megacities.

2. Capital Cities

The position of national capitals is always peculiar, and it is especially complex in federations. The cases of Berlin, Brasilia, Buenos Aires, Delhi and Mexico City raise many institutional issues, especially concerning autonomy, finance and politics.

2.1 *Autonomy*

National governments have a strong interest in national capitals. Perhaps the first preoccupation is security, for both domestic politicians and state visitors. As well, capitals have concentrations of cultural facilities and institutions. Federal governments are interested in these cities as embodiments of the nation, projecting an image of the country onto the international stage and reflecting it to the whole citizenry. Hence the common refusal of the view that capitals should be developed and maintained as their inhabitants alone desire. Federal governments exert substantial control over capitals, imposing prescriptions and proscriptions under which local politicians and citizens sometimes chafe.

For a long time, Buenos Aires, the metropole of Argentina, was under direct central-government control. The national president was head of the federal capital, appointing the mayor, and the national legislature also functioned as the decision-making body for the city. Under the 1994 constitutional decentralization, the principle of municipal autonomy was recognized, and Buenos Aires was endowed with special autonomy. Its 1996 constitution provided that all municipal legislators be elected, and the autonomous city is now a component of the federal system, though it lacks the full powers of the 23 states.

Until reforms in 1997, Mexico City had no elected representatives, and the mayor was appointed by the federal government. The reforms did not, however, include a municipal constitution

or charter, and the city still has only limited powers over its finances, including borrowing. There is no formalized special relationship with the federal government, but the Republic has substantial control in some areas, appointing the chief of police most notably. There is also a committee concerned with Mexico City in each chamber of the national legislature.

Delhi has a remarkably complex administrative structure. It is a National Capital Territory, and there is also a much larger National Capital Region. There is a state-like assembly for the Territory, with 70 elected representatives, a chief minister and cabinet, and also a municipal corporation with a mayor and 273 councillors who represent about 14 million citizens. (There is also a Cantonment Area, where 3 per cent of the total population is essentially governed by the military.) The assembly falls under the Urban Development Ministry and also the Home Ministry, with the Delhi Police Commission being responsible to the latter. More important, the central government appoints the lieutenant governor, who has considerable control over the devolved policy areas of education, health and social services. The governor is also head of the Delhi Development Authority, which has extensive land holdings, is charged with designing a 20-year plan for the region, and has full authority over all planning and zoning. So the system is very complex: one participant noted that this is essentially a hold-over from the Raj culture—a system in which “no one person can say yes to anything, but many people can say no”. While the Centre may not always achieve its positive goals, it certainly has the edge in being able to say no.

Brasilia is very different. It is a National Capital Region, but also a Brazilian state, and it is administered as such by a governor and a governing council that has 80 elected representatives. Berlin is in a similarly strong position. As one of 16 German *Länder*, it has full state powers, including important representation in the *Bundesrat*, the Upper House, and the mayor is the head of government of the state of Berlin. In both these cases, though, the national government has played an important role in shaping the development and functioning of the city.

Most concern in these capitals is about relations with the national government, but there are also issues with neighbouring

authorities. Berlin is surrounded by the state of Brandenburg, and there are major spillover effects and coordination problems. In Mexico City, there are 8.5 million inhabitants, but another 22.5 million live in the metropolitan area. Buenos Aires has 3 million citizens, but another 10 million are in 40 other metropolitan municipalities: here the problems of planning and coordination are so severe that serious proposals have been made to move the national government out of the city to a new capital.

It should be noted that there was no discussion of clashes between federal governments and subnational governments over these cities, because none exists as a municipality in a strongly decentralized federation such as Switzerland or Canada. When this occurs, tensions can be strong, as was noted long ago: “if the national capital of a federal union comes under the government of any one state of the union, that state is in a position to dominate the federation’s capital, and the central government does not have control over its own seat of government” (Rowat, 1974: xi). The federal governments discussed here do not face this dilemma.

2.2 *Finances*

The financial position of capitals in federations seems closely linked to their degree of autonomy. Berlin is in a fiscal crisis, as high unemployment rates and expensive social welfare costs led to a heavy debt load. The problems were exacerbated by the sudden end of the massive subsidies paid to the former West Berlin in order to maintain population there under difficult conditions, and by the particularly heavy cost of reunification of the divided city. As a state, Berlin benefits from the German equalization system, and from the stabilization fund that helps with reunification costs. As the capital, there are also special contracts with the federal government, though these are only sporadic and for particular purposes (security, culture and urban development). The city’s rather desperate case for special funds was denied by the Federal Constitutional Court, which insisted first on austerity.

At the other extreme are Mexico City, source of 25 per cent of the nation’s GDP, which benefits importantly from special-purpose

transfers, and Brasilia, where municipal salaries and big new infrastructure projects are the envy of other Brazilian municipalities. The governments of Delhi deal with complex administration and the heavy hand of the Centre, but receive generous federal funding to complement the strong municipal tax base. In general, and perhaps reasonably, it seems that higher levels of autonomy are associated with less financial support from national governments.

2.3 Politics

There are always tensions between a federal government with its national and international concerns and municipal or city state governments that aim for particular patterns of development and have their own priorities in service delivery. These tensions sharpen when governments are of different partisan complexions, and there is no doubt that relations are smoother when partisanship is common. In Delhi, for example, there was considerable friction when the Congress party controlled the federal government and the city politicians were led by the centre-right, and this added to the *immobilisme* caused by administrative complexity. The same has been true of Mexico City, where partisan conflict can lead—at least—to a lack of communications across the levels of government. Officials can bridge these gaps to some degree, but accords at the political level are essential: intergovernmental relations require trust, and partisan differences can make this hard to develop.

The other political issue raised concerns democratic participation. Demands and grievances assault all municipal administrations, and it is a truism that not all can be satisfied. But handling these popular pressures is harder for local politicians when their possible responses are constrained by federal-government policies; as well, citizens may blame municipal leaders for initiatives and problems when the federal government is really responsible. The Chief Minister of Delhi has organized a Participation Movement in part to educate citizens about the responsibilities of various orders of government. But this movement has other purposes, which lead to the broader issues about democratic governance discussed in Work Session 12.

3. Governance in Megacities

A megacity is an urban agglomeration with a population greater than 10,000,000. Not long ago, only New York qualified as a megacity, but there are 22 in the world at present. In the developing South, their growth has been explosive. Delhi, for example, had 350,000 inhabitants at the time of Partition, 16,000,000 at present, and a projected 23,000,000 by the year 2021. In democracies, it is not possible to control in-migration, yet growth creates huge pressures on the demand side for services, and governments must struggle to cope with housing shortages, squatters, and poor air quality, while providing ever more public transport, waste disposal, potable water, and electricity.

The case for financial support seems compelling. First, megacities such as Mumbai and Tokyo are “national cities”. They, rather than the subnational units in which they are located, are known around the world as flagships of their nations. As well, they bear the burden of rapid and massive in-migration from all parts of the country, so there is a national obligation to them. Further, they are engines of economic growth, generating tax revenues for other levels of government. So arguably national and subnational governments should devolve fiscal resources and provide transfer payments, or else megacities should be included in national systems of transfers to subnational units.

But there are counter-arguments. Internal migration is creating pressure not only on megacities but also on small and medium-sized urban centres. Second, most megacities have a robust property tax base relative to villages and rural areas, and most receive special support from subnational and national governments, particularly for infrastructure. Last is the argument that in principle there should not be a direct relationship between the revenues raised in the city and funds transferred to the city; in other words, cross-subsidization should remain a policy option for national and subnational governments.

While each megacity has peculiar institutional structures, there are several common governance issues, which centrally involve the relationship between rational planning and democratic participation. It is essential to build local capacity in these megacities; that is to put in place modern, efficient, technically competent bureau-

cracies to plan and deliver services. In huge metropolitan regions, under conditions of explosive growth, it seems that regional authorities are needed for the “scientific planning” of public transit, highways, electrical grids and water systems, and for acquiring agricultural land and laying out new settlement areas. But such authorities generally have only weak democratic legitimacy, and problems arise when their schemes conflict with the plans of local-level authorities and the wishes of local citizens. In several megacities, for instance, efforts to widen roads and to absorb agricultural land have caused sharp political controversies.

There is a lot of superficial agreement about the desirability of democratic involvement in politics at the grassroots level. In Delhi, for instance, there are neighbourhood associations, which allow for more involvement than is possible in a city where there are about 60,000 people for every municipal councillor. As well, local participation in planning can, in theory, bring substantive information—the “ground realities”—to bear on macro-plans, and so improve them by adapting them. There is some disagreement about whether local organizations should operate by consensus or have elected leaders, and more debate about their optimal size. But the real problem concerns conflicts between localized planning efforts and regional macro-plans. Many agree there is a need for some sort of local, democratic “empowerment”. But others worry that the involvement of ordinary citizens simply generates opposition to plans and results in a “list of demands”.

The debate can be illuminated by distinguishing two aspects of democratic participation (Pateman, 1970). The first is “instrumental participation”. Here, those taking part in some deliberative process are seeking certain ends. Participation is a means to those ends. So citizens make speeches in meetings or press their representatives to achieve goals like getting electrical service or a bus route or stopping a road from being widened. Those who advocate “empowerment” want citizens to have the power to achieve their objectives through democratic processes, while those who are apprehensive about broad public participation fear that ill-informed engagement will produce a mere list of demands or, if successful, will distort or impede the changes that are necessary for orderly development and the rational provision of infrastructure and services.

But political theorists maintain that participation has a “developmental” quality. By engaging in political discussion, citizens acquire more information about the issues at stake and come to understand their complexity: they learn the rationale for policies. They also come to appreciate that there are other views and needs than their own, some of which may be sensible and legitimate. Quite profoundly, through engagement, citizens learn about the processes of democratic decision making—the need to compromise and to sometimes accept that their particular goals must be abandoned for the common good. And this is why some of the Work Session participants favoured engaging the citizenry, not just to listen to them but to “bring about changes in citizen behaviour”.

Clearly there is a tension between instrumental and developmental participation. Developmental learning can take some time, and some citizens can be quite intransigent (especially when partisan politics are involved). There are also imbalances in power and resources between the authorities and citizens and among different groups of citizens. Problems of scale bedevil attempts to promote democratic engagement, and dialogue across levels of government can be complex and difficult.

These dilemmas exist in any democratic governance process in villages, towns, provinces and nations. However, the instrumental/developmental tension in political participation and its impacts on planning are particularly acute in megacities, because of the sheer numbers of new migrants, the difficult conditions of life, the heavy demands for services and infrastructure, the desperately scarce resources, and the deep gulf between citizens and expert administrators that politicians must bridge. Hence, questions about public participation infused much of the broad-ranging discussion in the Work Session that focused on governance and service delivery in megacities.

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Contributors

Caroline Andrew is Director of the Centre on Governance and Professor in the School of Political Studies at the University of Ottawa, Canada, and a Member of the Faculty of Graduate and Postdoctoral Studies. Her research interests include municipal government, urban development, the role of community-based women's groups in the formulation of municipal social policy and, finally, the role of cities and local governments in federal systems. Current research projects include an analysis of best practices in the management of diversity in Ottawa, the impact on municipal amalgamation on the management of diversity in Montreal and Ottawa, multi-level governance and good municipal public policy.

Rupak Chattopadhyay is Senior Director, Global Programs and Head, International Conferences at the Forum of Federations. In this capacity, he was Adviser to the Chairman of the organizing committee of the 4th International Conference on Federalism. He was Director of Asia-Pacific Programs at the Forum, and was closely involved with the peace process in Sri Lanka and discussions on constitutional reforms in the Philippines. He has worked as policy adviser to various commercial and industrial houses in India, Africa and Europe. He has a master's degree in Economics and Political Science from the University of Ottawa and the University of Illinois (Urbana–Champaign) and did his doctoral studies in Political Science at the University of Toronto. He is also a member of the Consultative Group on the *Study of the Inter-governmental relations*

and dispute resolution mechanisms, Inter-State Council, Government of India.

Boris Graizbord is National Program Director for LEAD Mexico. Before joining LEAD, he served twice as academic coordinator for the master's program in urban development at El Colegio de Mexico. Since 1979, he has been a research professor at the Center of Demographic Studies and Urban Development in El Colegio de Mexico and, since 1977, lecturer in the post-graduate division in the faculty of architecture at Mexico's National University (UNAM). He also teaches at the University of Southern California, Pennsylvania, and the New School. Under the auspices of various organizations including the IDRC, he conducted research on population and environment, industrial pollution and medium-sized cities, metropolitan transport and regional development in Mexico. He pursued doctoral studies in social geography at the London School of Economics and Political Science.

Suresh Keswani, M.A. LL.B and an activist who is involved with Poverty Alleviation programmes of the World Bank and the International Monetary Fund through Parliamentary Network on the World Bank is the former Member of Parliament of India having served as M.P. of Rajya Sabha representing the state of Maharashtra in the Upper House of Parliament of India from 1964-2002. The most significant contribution of Mr. Keswani was that he helped co-found along with Members of Parliament of seven different countries of Europe, Africa and Americas a parliamentary institution, which has grown to its present strength of 900 members from parliaments of 170 countries. He is the associate member of the Governing Board of the Parliamentary Network on the World Bank, and is invited to work with United Nations specially created department for the Millennium Development Goals (MDGs).

Arif Ali Khan is a Ph.D. candidate at the Centre for Study of Law and Governance, Jawaharlal Nehru University. He holds an M.A. in Political Science from the University of Hyderabad and a B.A. in German Language and Literature from Jawaharlal Nehru Uni-

versity. He was a consultant to the Inter-State Council Secretariat, Government of India for the 4th International Conference on Federalism. He is presently employed as Research Associate at Indian Council of Social Science Research.

John Kincaid is the Robert B. and Helen S. Meyner Professor of Government and Public Service and Director of the Meyner Center for the Study of State and Local Government at Lafayette College, Easton, Pennsylvania. He also is Senior Editor of the Global Dialogue on Federalism, a joint project of the Forum of Federations and International Association of Centers for Federal Studies, and an elected fellow of the National Academy of Public Administration. He received the Distinguished Scholar Award from the Section on Federalism and Intergovernmental Relations of the American Political Science Association and the Distinguished Scholar Award from the Section on Intergovernmental Administration and Management of the American Society of Public Administration. He has served as Editor of *Publius: The Journal of Federalism* and Executive Director of the US Advisory Commission on Intergovernmental Relations, Washington, DC. He has written various works on federalism and intergovernmental relations, and is co-editor of *Constitutional Origins, Structure, and Change in Federal Countries* (2005).

George Mathew is Founder Director, Institute of Social Sciences, New Delhi. His areas of specialization are: local government system, decentralization, federalism and gender equity. Born in Kerala (1943), George Mathew obtained his Ph.D. in Sociology from the Jawaharlal Nehru University, New Delhi. He was a visiting fellow at the South Asian Studies Centre, University of Chicago (1981-82), and Visiting Professor, University of Padova, Italy (1988). He was awarded the Fulbright Fellowship in the summer of 1991 to work at the University of Chicago. He has participated and presented papers in international conferences and his studies and articles on state and society appear in national dailies, journals and books.

Horst Risse has held a number of senior positions with the *Bundesrat* (Upper House) in Germany, and is now serving as Secretary of the Joint Commission of *Bundestag* and *Bundesrat* for the Reform of the Federal State Order. He has been a member of the executive staff of the *Bundesrat* since 1986, serving in the areas of parliamentary law, parliamentary services, agriculture, regional planning, urban development, transport and economics. He received his doctorate in law at Bonn University in 1987.

Dalbir Singh, a graduate in Law and Masters in Business Administration, had a brief distinguished career in the Indian Army during which he participated in the 1971 Indo-Pak War and taught at the Army Combat and leadership School. Besides a stint with the military intelligence, he has handled challenging political assignments of the insurgency prone and tribal dominated areas of the North-East. He is the Secretary General of Foundation for Public Policy and Governance and Vice-President of Indian Olympic.

Nico Steytler is a Professor of Law and Director of the Community Law Centre at the University of the Western Cape, South Africa. He has widely published in areas of intergovernmental relations and local government. He acted as an adviser to the drafting of the South African Constitution of 1996 as well as the Western Cape provincial constitution. He is a member of Municipal Demarcation Board. He has served as consultant to a number of national, provincial, and local government departments. He is first vice president of the International Association of Centres for Federal Studies and a member of the Editorial Board of the Global Dialogue on Federalism.

Vinod Vyasulu is a Consulting Economist based in Bangalore. A student of the Delhi School of Economics (M.A.) and the University of Florida, (Ph.D.) he has taught at the University of the Americas in Mexico and the Indian Institute of Management, Bangalore. He held the Reserve Bank of India as Chair in the Institute of Social and Economic Change in Bangalore in 1988-94. A former Director of the Institute of Public enterprise, Hyderabad,

he is currently interested in issues of devolution following upon the 73rd and 74th constitutional amendments in India. He has written widely in international and national journals. At present he is working on issues of financial devolution in Indian municipalities.

Ronald L. Watts is Principal Emeritus, Professor Emeritus of Political Studies and Fellow of the Institute of Intergovernmental Relations at Queen's University, where he has been a member of the academic staff since 1955. He was Principal and Vice-Chancellor of Queen's University 1974-1984. From 1988 to 1993, he was Director of the Institute of Intergovernmental Relations at Queen's University. As a scholar, Ronald Watts has worked for over forty years on the comparative study of federal systems and Canadian federalism, subjects on which he has written or edited twenty books, monographs and reports and over eighty articles in journals and chapters in books. He was a Commissioner on the Task Force on Canadian Unity (Pepin-Robarts), 1978-79, and a consultant to the federal government during the constitutional negotiations in 1980. In June 1990 he was an advisor to Premier Peterson of Ontario during the discussions over the Meech Lake Accord. From April 1991 to September 1992 he was Assistant Secretary to the Cabinet for Constitutional Development (Federal-Provincial Relations Office) with the Government of Canada.

Robert Young is Professor of Political Science at the University of Western Ontario, where he holds the Canada Research Chair in Multilevel Governance. He is past Chair of the department, Co-Director of the Political Economy Research Group, and past President of the Canadian Political Science Association. He has worked on many areas of public policy, including trade and industrial policy, and also on public administration and federalism. For some years he concentrated on Quebec politics and the issues raised by secession. Currently he is leading a large research project on multilevel governance and public policy in Canadian municipalities. His books include *The Breakup of Czechoslovakia* (1994), *The Secession of Quebec and the Future of Canada* (1995);

second edition 1998), and *The Struggle for Quebec* (1999). He has also edited *Stretching the Federation: The Art of the State in Canada* (1999), and co-edited *The State of the Federation* (2004) and *Municipal-Federal-Provincial Relations in Canada* (2006).

