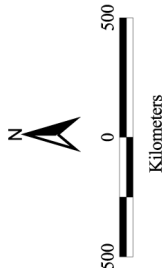
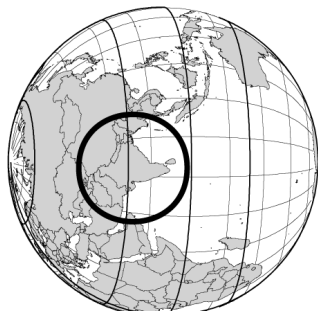


# Republic of India

Capital: New Delhi

Population: 1.14 Billion  
(2008 est.)

Boundaries and place names are  
representative only and do not  
imply any official endorsement.



Sources: Times Atlas of the World; ESRI Ltd.;  
CIA World Factbook



# Republic of India

GEORGE MATHEW AND RAKESH HOOJA

Although community governance has existed in India since ancient times, local self-governments in modern form were introduced only in the late nineteenth century during British rule, and it took independent India more than four decades to accord constitutional status to rural local governments (*panchayats*) and urban local governments (municipalities). This chapter examines the evolution of local government as an institution and discusses the current system in India as well as the two key constitutional amendments that led to the empowerment of local government institutions. It also examines the impact of this change on India's polity, governance, and socio-economic development. The chapter concludes with an analysis of the functioning, deficiencies, and prospects for the future of local government. Despite numerous developments – whether constitutional Acts and statutes or government orders – state governments, members of Parliament and state assemblies, and political elites have strongly resisted any move to increase the powers and autonomy of local governments. In sum, although the local bodies are defined in the Constitution as “institutions of self-government,” they do not function as such in practice.

India became independent from British rule on 15 August 1947 with a territory spanning 3,287,260 square kilometres, making it the seventh largest country in the world. India is the second most populous country in the world with a population of 1.4 billion (2007). According to the Census of India (2001), 72.2% of India's population live in rural areas and 27.8% dwell in urban areas. The population comprises 85% Hindus, 13.4% Muslims, 2.3% Christians, 1.9% Sikhs, 0.8% Buddhists, 0.4% Jains, and 0.6% others. It is a country with striking ethnic, cultural, and religious diversity.<sup>1</sup> India has an expanding economy with a growth rate of over 9.4% (2007). It is the fourth largest economy in the world after the United States, China, and Japan in terms of purchasing power parity (PPP). It is the tenth largest economy in the world in dollar terms with a gross domestic product (GDP) of US\$1 trillion.

Currently, the Republic of India is a union of twenty-eight states – with populations varying from 0.6 million to 170 million – and seven Union Territories.<sup>2</sup> The states differ vastly in terms of their natural resource endowment, development, language, ethnicity, and political culture. The Census of India (2001) lists 114 spoken languages, 22 of which have official constitutional status. Hindi is the official language of the Union, and provision exists for the continuation of the use of English for official purposes.

India is a parliamentary democracy with a multiparty system.<sup>3</sup> There is a bicameral Union legislature. The members of the lower house of Parliament, known as the Lok Sabha (House of the People), are elected directly by the people. The members of the upper house, the Rajya Sabha (House of the States), are elected by the state assemblies through a proportional representation system.

The president of India is elected by the members of Parliament as well as the state assemblies. The prime minister can be from the lower or upper house of Parliament and is elected in accordance with the Westminster parliamentary system. The states have their own elected legislatures; of these, five – Bihar, Maharashtra, Karnataka, Uttar Pradesh, and Jammu and Kashmir – are bicameral. The chief minister of each state is elected by the legislators of the political party or the coalition that commands a majority.

The entire electoral machinery functions under the Election Commission of India, which possesses autonomy of functioning under Article 324 of the Constitution. The Election Commission, as an impartial, autonomous body, plays a significant role in strengthening democratic practices and conventions in the country. It enforces a code of conduct at the time of each election to ensure a free and fair election. The commission is responsible for the elections of the Union bodies – president, vice president, and Parliament (Lok Sabha and Rajya Sabha) – and the legislatures of the states and Union Territories. Local government elections are conducted through state election commissions.

The Indian National Congress, which fought for India's independence, dominated the political scene for several decades. It was the ruling party in the Union arena and in almost all the states for nearly a quarter-century after the first general election of 1952. Since the mid-1970s, coalition governments have become the norm, both in the Union arena and in the states. There are 886 registered political parties in India, of which the Election Commission of India recognizes 6 as national and 53 as state parties.

Despite the occasional fractured mandate and the interplay of caste, religion, and region, the workings of the multiparty parliamentary system have resulted in an inherent resilience of a democratic political culture that is embedded in the broad framework of a constitutional scheme. Moreover, the role played by regional parties in several states and their decisive say in the affairs of the Union (due to the strength of their numbers in Parliament and

state legislatures) have strengthened the federal structure of India. The states have progressively asserted their autonomy within the existing system while asking for more powers; consequently, the Union is more attentive now than ever to the political sensibilities of the subnational units.

India is a federal republic, but the term “federal” does not appear in the Constitution. The Supreme Court of India has used “federal” to characterize the “basic structure” of the Constitution, and this structure was declared by the Supreme Court in 1973 to be unamendable.

For a vast country like India, administering the states and Union Territories, which have expansive and, at times, bewildering diversities, is a daunting task. The Seventh Schedule of the Constitution outlines the division of legislative jurisdiction between the Union of India and the states. The Union List includes matters such as defence, foreign affairs, foreign jurisdictions, citizenship, railways, posts and telegraphs, telephones, wireless, broadcasting and other like forms of communication, airways, banking, coinage, currency, and Union duties and taxes. The State List includes, for example, public order, police, public health, local government, agriculture, land, rights in or over land, land tenures, land improvement, alienation of agricultural land, fisheries, markets and fairs, money lending and money lenders, and relief of agricultural indebtedness, as well as certain duties and taxes. The Concurrent List includes items on which the Union and the states can act, such as criminal law, criminal procedure, administration of justice, constitution and organization of all courts (except the Supreme Court and the high courts), marriage and divorce, adoption, wills, forests, economic and social planning, population control and family planning, social insurance, and the welfare of workers.

The residual legislative power rests with the Union Parliament, which has exclusive power to make any law with respect to any matter not enumerated in the Concurrent List or State List. It may be noted that Parliament can make laws with respect to any matter enumerated in the State List if it becomes necessary or expedient to do so in the national interest. The Constitution provides that nothing prevents Parliament from making at any time any law with respect to a State List matter, including a law adding to, amending, varying, or repealing the law so made by the legislature of a state.

Each state government has districts as its basic unit of administration. A district is a territorial unit that hosts almost all state agencies and departments while serving as the point of interaction between the government and the citizen. India has 607 districts, of which 55 have populations that are more than half urban. The populations of districts vary from 0.2 million to 2 million, and the areas of districts vary significantly. The district collector (also referred to as deputy commissioner or district magistrate in some states), an office of the Indian Administrative Service (IAS), is the administrative head, or fulcrum, with responsibility for coordination and

supervision of a number of district offices. In fact, the office of collector was initially assigned a pivotal position in local administration by the British in 1786. All local bodies in India exist at district or subdistrict levels.<sup>4</sup>

Mechanisms of intergovernmental relations include the National Development Council (NDC), set up in 1952 by a Cabinet resolution to consider matters relating to economic development and fiscal policy, and the Inter-State Council (ISC). The ISC was set up under Article 263 of the Constitution on 28 May 1990 by a presidential order to look into better coordination of policy and action between the Union and the states. There has, however, been debate about how to facilitate fuller utilization of the potential of these institutions.<sup>5</sup>

The legal system is based on English common law. The Constitution provides for a single integrated judicial system at the central level. At the apex is the Supreme Court. The chief justice of India is appointed by the president on the recommendation of the prime minister. There are twenty-five judges of the Supreme Court, who are also appointed by the president on the recommendation of the chief justice. The Supreme Court is the protector of the fundamental rights of the citizens and the guardian of the Constitution.

The judiciary is an independent institution and enjoys considerable trust of the people. The Constitution confers on the Supreme Court the power to declare any legislation of Parliament unconstitutional, thereby creating an important check on the government of the day and ensuring the supremacy of the Constitution.

The independent working of some of the national statutory commissions, such as the National Human Rights Commission, the National Women's Commission, and the National Minority Commission, has added to the vitality of India's democratic system. The media also enjoy full freedom and autonomy. The free media have given Indian democracy an institutional depth and vibrancy.

#### HISTORY, STRUCTURES, AND INSTITUTIONS OF LOCAL GOVERNMENT

The history of the *panchayat* (meaning "assembly of five persons"), which looked after the affairs of the village, stems from ancient India. The *panchayats* had both policing and judicial powers. Prevailing custom and religion elevated them to a sacred position of authority at the head of the hierarchical caste system, where they ensured that persons belonging to a particular caste adhered to its code of social conduct and ethics. Although this was a general pattern in the Indo-Gangetic plains in the North, the village *panchayats* in southern India generally each had a village assembly whose executive body consisted of representatives from various groups and

castes. These village bodies, in both the North and the South, have been the pivot of administration, the centre of social life, and above all, a focus of social solidarity. These characteristics of the village *panchayats* remained unchanged even during the medieval and Mughal periods. Although, with their caste-ridden feudal structure of those days, the village *panchayats* left much to be desired, Sir Charles Metcalfe, the British provisional governor general of India (1835–36), called them “the little republics.”<sup>6</sup>

The municipal council for towns in India, in the sense of an accountable institution, was the creation of British colonial rule. The British were concentrated mainly around the trading centres. As a result, their interest was limited to the creation of local governments of nominated (and not elected) members in the major towns for purposes of revenue collection. The members were nominated by the district collector on behalf of the provincial governments. Thus, as early as 1687, a municipal corporation was set up in Madras, structured on the British model of the town council. Representing local government of a sort, these bodies continued over the years to comprise nominated members, with no elective element whatsoever.

After the first municipality came into being, it took the British rulers nearly 200 years to pass a resolution for decentralization of power, thereby bringing about administrative efficiency in meeting the demands of the people, and to add to the financial resources available to local government. Although this resolution by Viceroy Lord Mayo’s council in 1870 was largely a result of fiscal compulsion, it was nevertheless a landmark development. Another landmark in the same year was the revival of the traditional village *panchayat* system in Bengal through the Bengal Chowkidari Act. This Act empowered district magistrates to set up *panchayats* of nominated members in the villages who could levy and collect taxes to pay for the watchmen engaged by them.

Another milestone was the British government resolution of 18 May 1882, passed during the viceroyalty of Lord Ripon. It provided for the establishment of rural local boards, two-thirds of whose members were to be elected representatives, presided over by nonofficial chairmen. This marked the period during which the term “self-government” began to gain currency.

In 1909 the Royal Commission on Decentralisation, constituted by the British government, recommended that “it is most desirable, alike in the interests of decentralisation and in order to associate the people with the local tasks of administration, that an attempt should be made to constitute and develop village Panchayats for the administration of local village affairs.” However, the commission visualized certain difficulties with regard to the success of local governments because of “caste and religious disputes” or the influence of the landlords with large estates, which “may prevent free action by the tenantry.” The conclusion of the commission, however, was that these difficulties were “far from insurmountable.”<sup>7</sup>

Furthermore, the Montagu-Chelmsford Reforms of 1919 continued the process of decentralization. Under the proposed scheme of diarchy, areas such as public health, education, and local self-government were to be brought under the domain of Indian ministers in the provinces. To make local self-governments fully representative and responsible, it was envisioned that they would be subject to complete popular control.

By 1925, in almost all provinces and in a number of native states, Acts were passed for the establishment of formally constituted *panchayats*. These statutory *panchayats* covered a limited number of villages and generally had a limited number of functions.

The Government of India Act 1935, which inaugurated provincial autonomy, marked another important stage in the evolution of *panchayats*. With popularly elected governments in the provinces, almost all provincial administrations felt duty bound to enact legislation for further democratization of local self-government institutions, including the village *panchayats*.<sup>8</sup>

It must be noted that village *panchayats* were central to the ideological framework of India's freedom movement. Mahatma Gandhi defined his vision of village *panchayats* as a complete republic based on perfect democracy and individual freedom.<sup>9</sup> Despite this strong ideological framework, when the Constitution of India was written, *panchayats* were relegated to a place in the Directive Principles of State Policy,<sup>10</sup> which are nonjusticiable principles.

India's development in the early 1950s ignored Gandhi's idea of *panchayats*. The folly of this approach was soon realized. The 1957 report of the Team for the Study of Community Projects and National Extension Service recommended that "participation in community works should be organised through statutory representative bodies."<sup>11</sup> This provided impetus to address the prevailing vacuum and accelerated the pace at which local governments were constituted in all the states.

Prime Minister Jawaharlal Nehru inaugurated the first *panchayat* at Nagaur in the State of Rajasthan on 2 October 1959, hailing the system as "the most revolutionary and historical step in the context of new India."<sup>12</sup> The thinking in India was then that democracy at the top would not be a success unless it was built from below. S.K. Dey, minister for community development in Nehru's Cabinet and the architect of *panchayats*, viewed democracy as arising from an organic and intimate relationship between the *gram sabha* (village assembly) and the Lok Sabha.

By 1959 nearly all the states had passed *panchayat* legislation, and by the mid-1960s *panchayats* had reached almost all parts of the country. On average, a *panchayat* covered a population of about 2,400 in two to three villages. Younger and better leadership was emerging in the local governments, whose functioning was met with a fairly high degree of satisfaction among the people.

The 1978 report of the Committee on Panchayati Raj Institutions, which suggested measures to strengthen the rural local governments in order to enable a decentralized system of planning and development, was a turning point in the concept and practice of *panchayats*. It was a seminal document seeking to make *panchayats* an organic, integral part of India's democratic process.

The West Bengal government in 1978, followed by the states of Andhra Pradesh, Jammu and Kashmir, and Karnataka, revised their *panchayat* Acts and gave new life to the *panchayats*. During this phase, the *panchayat* was transformed from a development agency into a political institution.

The prerequisites for *panchayats* and municipalities to function as institutions of self-government are (1) clearly demarcated areas of jurisdiction, (2) adequate power and authority commensurate with responsibilities, (3) necessary human and financial resources to manage their affairs, and (4) functional autonomy within the federal structure. This could not, however, be achieved in full measure because the local governments were not designated a place in the operational part of the Constitution. Therefore, drawing from the lessons and experiences of about four decades, the 73rd and 74th Amendments to the Constitution came into effect in April and May 1993. They marked a remarkable transformation in the nature and substance of the local government system in the country. The adoption and content of these two amendments will be examined in the following section.

The focus on decentralization and urban governance in India has been an offshoot of the increasing urban population and of the concentration of major development activities in the cities. The increase in urban population over the decades (table 6.1) has been due to a natural increase in the population, reclassification of new towns, and rural-urban migration.

During the period 1991–2001, the urban population grew by 31.48%. Most of the growth occurred in the Class I cities (populations of more than 100,000). The share of Class I cities of the total urban population of the country grew from 26% in 1901 to 68.7% in 2001. There are 383 Class I cities today, of which 35 are metropolitan cities with populations of 1 million or more. The population of the metropolitan cities comprises as much as 38% of the total urban population. Migration has been a major factor in the growth of the urban population, especially in large cities.

Metropolitan cities are part of larger urban agglomerations having regional dimensions. They encompass not only the main city, which has municipal-corporation status, but also a number of other urban and rural local governments surrounding the main-city corporation. The Kolkata metropolitan area, for example, covers not only the city of Kolkata but also forty other municipal bodies and several *panchayats* spread over three adjacent districts.

The 74th Constitution Amendment Act defines a metropolitan area as “an area having a population of one million or more comprised of one or



Table 6.1

India: Trends in urbanization

Year	Urban population (millions)	Percentage of total population	Percentage of decadal growth	Percentage of contribution to GDP
1981	159.46	23.34	46.10	47
1991	217.61	25.71	36.47	55
2001	286.12	27.82	31.48	60

*Source:* Census of India (2001).

more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas.” The multimunicipal character is therefore an essential requirement of a metropolitan area. According to the Census of India (2001), thirty-two urban agglomerations with a population of 1 million or more fulfil this criterion. The remaining three are principally single-municipality corporations (table 6.2).

Metropolitan areas with a population above 300,000 are known as city corporations. They have stronger institutional arrangements and better access both to resources and to infrastructure. They have the necessary resources for development-related activities, and some of the municipal corporations also have the capacity to access capital markets from domestic as well as international sources. These are the cities that have attracted most of the emerging business and economic activities during the past decade of economic liberalization, leaving the smaller towns with extremely limited financial and human resources to lag behind.

#### CONSTITUTIONAL RECOGNITION OF LOCAL GOVERNMENTS

The experts, the activists, as well as the followers of Gandhi’s philosophy of village republics have analyzed the Indian experience and concluded that constitutional recognition of local governments is a necessary condition for their effective functioning. Because there was no constitutional support for the *panchayats* and municipalities in India, the state governments did not take them seriously. Therefore, from the early 1980s, a demand for constitutional recognition began to come from social activists, intellectuals, and *panchayats* themselves. As a result, by the end of 1988 a subcommittee of the Consultative Committee of Parliament for the Ministry of Rural Development recommended that *panchayats* be constitutionally recognized.

It was against this backdrop that on 15 May 1989 the 64th Constitution Amendment Bill on *panchayats* was introduced in Parliament,<sup>13</sup> followed by the 65th Amendment Bill on municipalities on 7 August 1989. Although

Table 6.2

India: Top ten metropolitan cities in 2001

Rank	City	State	Population (millions)
1	Greater Mumbai	Maharashtra	16.4
2	Kolkata	West Bengal	13.2
3	Delhi	Delhi	12.9
4	Chennai	Tamil Nadu	6.6
5	Bangalore	Karnataka	5.7
6	Hyderabad	Andhra Pradesh	5.7
7	Ahmedabad	Gujarat	4.5
8	Pune	Mahashtra	3.8
9	Surat	Gujarat	2.8
10	Kanpur	Uttar Pradesh	2.7

Source: Government of India, Ministry of Urban Development and Ministry of Urban Employment and Poverty Alleviation, Jawaharlal Nehru National Urban Renewal Mission (JNNURM), 2005.

the 1989 bills were a welcome step, there was serious opposition to them on two basic grounds as a result of their political overtones. First, the bills overlooked the states and were seen as an instrument of the Union to deal directly with the local government institutions. Second, the bills were imposing a uniform pattern throughout the country instead of permitting individual states to legislate the details, keeping in mind the local circumstances. The bills failed to meet the required majority by three votes in the upper house on 13 October 1989.

By 1991 all political parties through their statements and manifestos supported a constitutional amendment to strengthen *panchayats*, and a pro-*panchayati raj* climate was created in the country. On 23 December 1992 two Constitution amendment bills – one for the *panchayats* and the other for the municipalities – were passed by Parliament. They came into force as the Constitution (73rd Amendment) Act 1992 on 24 April 1993 for the *panchayats* and as the Constitution (74th Amendment) Act 1992 for the municipalities on 1 June 1993. The 73rd Amendment provided for each state to constitute *panchayats* at village, intermediate, and district levels, and the 74th Amendment provided for the constitution by individual states of *nagar* (or urban) *panchayats* for areas in transition from a rural to an urban character, municipal councils (often popularly referred to as town municipalities) for smaller urban areas, and municipal corporations (also at times referred to as city corporations) for large urban areas. In many states, such local bodies were already in existence before the state enacted implementing Acts.

Today, there are 537 district *panchayats*, 6,094 block/*tehsil/mandal panchayats* at the intermediate level, and 23,293 village *panchayats* in rural India. The urban local governments, which cater to about 30% of the population, are classified according to the size of the urban population, structures, and economic conditions. The total number of urban local governments is 3,551. Of these, 2,009 are *nagar panchayats* for areas in transition from rural to urban, 1,430 are municipal councils for smaller urban areas, and 112 municipal (city) corporations serve the larger urban areas.

There are sixty-four cantonment boards, equivalent to a local municipal body, for areas controlled by the military. These boards function under the aegis of the Ministry of Defence. The cantonment boards are statutory bodies having a mix of ex-officio members, nominated members, and elected members.

It may be noted here that in Jammu and Kashmir, the Acts enacted by Parliament do not apply unless the state legislature passes them. The State Panchayat Act of Jammu and Kashmir 1989 was amended twice, on 15 January 2002 and subsequently on 17 December 2003, to include the features of the 73rd Amendment to the Constitution. Also, provisions of the Constitution amendment Acts do not apply to the tribal areas mentioned in the Fifth and Sixth Schedules of the Constitution, as they are entitled to special privileges and status. Under the Sixth Schedule, in the states of Meghalaya, Mizoram, and Nagaland, as well as in the hill areas of Manipur, the traditional tribal-village and district councils work as local governments. However, they do not have the economic and political advantages enjoyed by the *panchayati raj* governments in the rest of the country. They have limited funds and are under no obligation to hold regular elections and reserve seats for women. Moreover, they are dominated by bureaucrats.

Fifth Schedule areas are in the states of Andhra Pradesh, Bihar, Chattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Orissa, and Rajasthan.<sup>14</sup> Parliament extended the 73rd Amendment Act to these areas on 24 December 1996 by legislating the Panchayats (Extension to the Scheduled Areas) Act 1996. The Extension Act is notable for the vast powers given to the tribal local governments.

Thus the journey of India's local government system from the "local self-government" idea of Lord Ripon to the "institutions of self-government" concept in the Constitution took more than a century.

Because the constitutional amendments opened possibilities for fulfilling these conditions, the new *panchayati raj* was seen as the "third order of governance," the Union and the states being the first and second orders, respectively. An important aspect of the Constitution amendment Acts is that the democratic base of the Indian polity has widened. Before the amendments, the democratic structure, through elected representatives, was restricted to the two houses of Parliament, the state assemblies, and the

assemblies of the Union Territories. The magnitude of the institutions of local government is best appreciated in the context of the governance institutions of the Union and states (fig. 6.1).

#### GOVERNANCE ROLE OF LOCAL GOVERNMENT

The 73rd Amendment empowered the states to “endow Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government.”<sup>15</sup> Such a law “may contain provisions of the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein with respect” to the preparation and implementation of plans and schemes “for economic development and social justice” in respect of the twenty-nine subjects listed in the Eleventh Schedule.<sup>16</sup> A similar provision applied to municipalities in respect of eighteen subjects.<sup>17</sup>

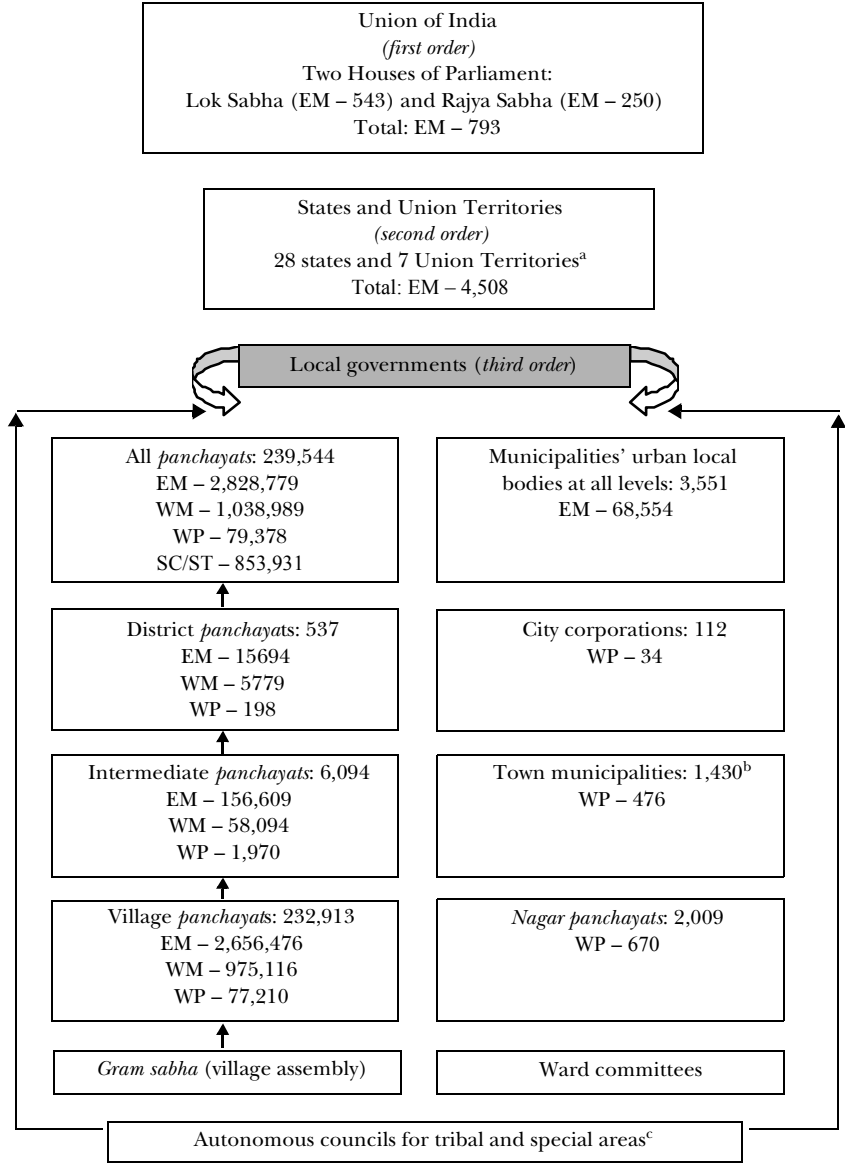
Subjects brought under the domain of the *panchayats* include economic development, employment generation, poverty alleviation, education, health, social welfare (including women and child development), and infrastructure development. Subjects brought under the domain of municipalities are urban planning, including town planning; planning for economic and social development; roads and bridges; water supply for domestic, industrial, and commercial purposes; public health, sanitation conservancy, and solid-waste management; urban poverty alleviation; and public amenities, including street lighting, parking lots, bus stops, and public conveniences.

The subjects for the *panchayats* are specific to rural areas, and the subjects suggested for municipalities are applicable only in the urban context. Because there is a wide gap between urban and rural India, these differences are significant, and the specially applicable subjects are therefore allocated to the *panchayats* and municipalities on the basis of geographical area.

Although forty-seven subjects are thus listed to be transferred to the *panchayats* and the municipalities, no state has yet transferred all these powers to the local bodies. A major problem regarding the transfer of functions from a state government to local government institutions is the nature of the subjects. The subjects are so broad in scope that in certain instances all the spheres of government – Union, state, and local – will have to undertake some implementing responsibility in varying degrees. Furthermore, no power has been given outside the subjects listed in the Eleventh and Twelfth Schedules. Except in a few states, the local bodies and their elected members do not have adequate assigned functions; nor do they have sufficient functionaries and funds provided by the state governments.

The total expenditure of local governments as a proportion of the combined expenditure of the Union, states, and local governments amounted

Figure 6.1  
India: Local government system under federal polity



EM = elected members, WM = women members, WP = women presidents, SC/ST = Scheduled Caste and Scheduled Tribe members.

<sup>a</sup> Of seven Union Territories, only two have an assembly.

<sup>b</sup> Smaller urban area: population under 300,000.

<sup>c</sup> Autonomous councils have been created in West Bengal, Jammu and Kashmir, and Assam for the administration and development of tribal areas with special features, but they also have statutory local governments.

to 6.4% in 1998–99 and 5.1% in 2002–03. The decline in the expenditure of *panchayats* (which covers nearly 70% of the population) from 3.9% in 1998–99 to 3.3% in 2002–03 is a matter of concern.<sup>18</sup>

### *Institutions of Local Government*

The institutional arrangement of local authorities varies according to the type of institution, but there are some common features. For rural local governments, there is a three-tier system at the village, intermediate (block/*taluk*), and district levels. Smaller states with a population below 2 million have only two tiers at the village and district levels. Seats at all levels are filled by direct election, and seats are reserved for the Scheduled Castes (scs) and Scheduled Tribes (sts) in proportion to their population. One-third of the total number of seats is reserved for women. One-third of the seats reserved for scs and sts are also reserved for women. Moreover, one-third of the offices of chairpersons at all levels is reserved for women. For all local governments, there is a uniform five-year term of office, and elections to constitute new bodies must be completed before the expiry of the term. In the event of dissolution, elections must be held within six months.

An independent election commission in each state is responsible for superintendence, direction, and control of the electoral rolls and for conducting local government elections. Although responsibility for changing the size/boundaries of a *panchayat* rests with the state government, some states have delegated the power to their state election commission.

Provisions for an assembly of all eligible voters in a *panchayat*, popularly known as a *gram sabha*, and for the ward committees in the municipalities are aimed at ensuring direct democracy. These forums offer equal opportunity to all the citizens of a village or town to discuss, criticize, and approve or reject proposals of the local governments and to assess their past performance. The village assembly also has the power to identify beneficiaries of various poverty-alleviation programs, propose an annual plan, discuss budget and audit reports, and review progress. It is a grassroots watchdog of democracy. The village assemblies and ward committees are statutory bodies, and they are expected to meet at least three times a year. However, they have not been able to achieve the status and position they should have attained by now because most state governments have failed to devolve specific functions to village assemblies and ward committees that would enable them to play a significant role in local self-government.

There is no local government staff cadre for a *panchayat*. Only the lowest-level functionaries are directly recruited or paid by the local governments. All other functionaries are deputed state government employees working in various departments of the government. There is a strong demand to create local government staff cadre at various levels, but this is yet to be implemented in practice.

The executive power of the *panchayats* rests with the president or chairperson at all three levels. He or she, in consultation with council members, acts as a political executive. A village *panchayat*, which is the first level, has a population size ranging from 1,200 in Punjab to 15,000 in West Bengal and up to 30,000 in Kerala. The intermediate-level *panchayats* are elected directly, with members electing the chairperson. The average membership of the intermediate *panchayats* is between fifteen and twenty persons.

Mayors and councillors are not full-time officials,<sup>19</sup> so they do not receive salaries or wages, nor do they have pension benefits. The social status and power associated with the posts, however, are more significant than the remuneration they receive, which is meagre, although they have perks and staff as well as meeting and transport allowances, which vary from state to state. Many people get elected again and again, and local elected offices are becoming stepping stones for those who want to get elected to state assemblies and the Union Parliament.

Historically, the commissioner system (popularly known as the Bombay Model) has been developed for managing municipal corporations. Under this system, the state-appointed commissioner, by virtue of his or her position as the administrative head and due to his or her statutory position in the municipal authority structure, wields enormous executive power. The mayor, unlike his or her Western counterparts, is devoid of powers and authority to decide on the municipal agenda. He or she remains merely a ceremonial head. There is no democratic control over the commissioner. The municipal statutes provide the commissioner with enough power to work independently in discharging municipal tasks and to cover a wide range of subjects. The elected councillors principally have advisory roles and discharge these roles through various standing committees. Even though such committees can make decisions on certain matters, they have no authority to oversee execution of the decisions. Such power rests with the commissioner, who draws his or her authority from the statute itself. The elected councillors can only draw the attention of the executives to any lapse in the implementation of municipal tasks.

For the past several decades, voices have been raised, especially by the All India Council of Mayors (AICM), against such a bureaucratic authority structure because it marginalizes the mayor. The emergence of the mayor-in-council (MIC) system for municipal governance, which is modelled on the cabinet system of government, was a response to the essentially bureaucratic nature of municipal government.

West Bengal was the first state to deviate from the Bombay Model and to introduce the MIC system in the Kolkata Municipal Corporation (KMC) and the Howrah Municipal Corporation (HMC) through the Kolkata and Howrah Municipal Corporation Acts of 1980. The MIC was constituted in Kolkata and neighbouring Howrah for the first time after the municipal elections in

1984. The KMC is the body corporate with 141 elected members. The MIC is composed of the mayor, deputy mayor, and ten elected councillors of the corporation nominated by the mayor. The corporation elects the mayor and the chairperson at its first meeting. The mayor has a five-year tenure and is the administrative head entrusted with the power and authority to run the corporation and provide guidance and supervision through his or her mayor-in-council. The chairperson functions like the speaker of the state assembly and presides over the meetings of the corporation. The mayoralty of the KMC, even though not subject to direct election, has emerged as an effective and strong position, unlike in Mumbai and Delhi. The KMC's mayor has a very crucial role to play in the day-to-day administration of the corporation.

Each member of the MIC is in charge of a certain functional department and serves as its administrative head. The officials of the department report to him or her. All important decisions are made by the MIC at weekly meetings.

Because of the MIC system, the KMC is not required to have various statutory and special committees for decision making, as is the case in other metropolitan cities like Chennai, Delhi, and Mumbai. It has only one statutory committee, the Municipal Accounts Committee (MAC), consisting of five to seven persons elected from among the councillors by themselves (by means of a single transferable vote) and two experts with special knowledge of financial matters. As a separate statutory body, it oversees the functions of the MIC to ensure financial propriety.

West Bengal introduced the MIC system to other municipal corporations in 1995 and extended it to other municipalities through a similar system, that of the chairperson-in-council.

In Madhya Pradesh the mayor-in-council system for corporations and the president-in-council system for other municipalities were introduced in 1998. The mayor is elected directly by the people. The ten MIC members are selected by the mayor from among the elected councillors. The post of the deputy mayor has been replaced by that of speaker of the corporation, who presides over all the meetings of the corporation, including MIC meetings. In 1998 the MIC was introduced in Maharashtra in the two municipal corporations of Mumbai and Nagpur on an experimental basis for one year, but it was discontinued after the initial period. The corporations reverted to the old Bombay Model in 1999.<sup>20</sup>

Delhi, the capital city of the country, was designated the National Capital Territory (NCT) of Delhi in 1995 by the National Capital Territory Act 1991. The population of Delhi, as per the Census of India (2001), is 13.8 million, of which the urban population constitutes 93%. The capital city's governance is shared between the Union government and the state government. The Delhi Jal (Water) Board, a parastatal body, is responsible for water supply, sanitation, and drainage. Electricity is provided through a public-private partnership.



The NCT of Delhi has an area of 1,483 square kilometres. Three local bodies look after the civic needs of Delhi: the Municipal Corporation of Delhi (MCD) (1,397.3 km<sup>2</sup>), the New Delhi Municipal Corporation (NDMC) (42.7 km<sup>2</sup>), and the Delhi Cantonment Board (DCB) (approximately 43 km<sup>2</sup>). The MCD is an elected body, and the NDMC and the DCB are nominated by two ministries of the Union government: Home Affairs and Defence, respectively. Whereas the executive head of the MCD is the municipal commissioner, the NDMC and the DCB are headed by the chairperson and the chief executive officer, respectively. The chief executives of the MCD and NDMC are appointed by the Ministry of Home Affairs, whereas that of the DCB is appointed by the Ministry of Defence.

The chief minister and the ministers of health and urban development in the NCT government do have some responsibilities to ensure that basic civic services are provided satisfactorily in the capital so that public health and hygiene are maintained. In other respects, the Delhi state government functions like the government of any other state, handling power supply, transport, industrial development, and revenue administration. However, the planning and development of land, as well as the maintenance of law and order, are not in the hands of the state government but are dealt with directly by the Union government. The Delhi Development Authority, which is the single largest landholding, planning, and development agency in the country, works under the Union Ministry of Urban Development.

Thus institutional responsibilities are diffused in Delhi, with a multiplicity of organizations having overlapping functions but no nodal agency to ensure coordination between them. The Metropolitan Planning Committee (MPC), discussed below, could have fulfilled the role of the nodal agency. Delhi has to date, however, not constituted the MPC.

There are different levels of elected representatives who share the political turf in Delhi, such as members of Parliament (7), members of the state legislative assembly (70), and also members of the municipal corporation (160 elected and nominated). On average, a state assembly constituency in Delhi covers two municipal wards. The demands of, and expectations from, the voters being the same, both the members of the legislative assembly (MLAs) and the municipal councillor have to ensure that their respective support bases are maintained. Hence in Delhi, unlike in other cities, the councillors and the MLAs compete to secure funds for their constituencies.

The rural areas of the NCT of Delhi have a two-tier system of *panchayati raj*, the second tier being an advisory body at the block level. The *panchayats* have been virtually nonfunctional in Delhi since 1989 because after the 73rd Constitutional Amendment Act, no conformity legislation was passed by the legislative assembly of the NCT of Delhi. Over the years, the village *panchayats* in Delhi have essentially confined themselves to the management of *gaon* (village) land.

Generally, the metropolitan areas fall within one state. In the case of Delhi, a broad area of over 30,000 square kilometres, consisting of the NCT and a few other towns and rural areas around it, was conceived to be developed as a metropolitan region. This is known as the National Capital Region (NCR). This area cuts across four states, namely Uttar Pradesh, Haryana, Rajasthan, and Delhi. A National Capital Region Planning Board (NCRPB) has been constituted with representatives of all the above states and others. It has the mandate to prepare plans for the development of the metropolitan region and to coordinate and monitor implementation of such plans. The NCRPB is a unique institution in the country, for it is engaged in developing a region that is governed not only by multiple local governments but also by several state governments and by agencies of the Union government.

Planning for development has been an important function of the Union and state governments ever since the first five-year plan was launched in 1951. However, a persistent criticism of the planning exercises has been that the plans are made from above by the Union government or the state governments, with priorities being conceived and decided, as Rajiv Gandhi succinctly pointed out, “at ethereal heights, far removed from the realities of the ground.”<sup>21</sup> One of the key objectives of empowering local government institutions through constitutional amendments was to put an end to this “paternalistic planning” from above and to initiate a bottom-up process that would ensure people’s participation and reflect responses to realities on the ground. To realize this objective, the Constitution made two important provisions. First, as mentioned, it mandated the *panchayats* and municipalities to prepare development plans for their respective areas. Second, under Article 243ZD, it introduced a new institution called the District Planning Committee (DPC), consisting principally of persons elected by the members of *panchayats* and municipalities from among themselves. In the DPC there may be some nominated members, who may be drawn from among experts or social activists, but the number of such nominated members cannot exceed one-fifth of the total. The constitutional mandate for rural and urban local government planning institutions is thus a milestone in institutionalizing decentralized planning.

The core approach is that, at the micro levels of *panchayats* and municipalities, plans are to be prepared with people’s direct participation. At the district level, both the individual *panchayat* and municipal plans would be consolidated by the DPC for preparation of the development plan for the entire district. In preparing such a district plan,<sup>22</sup> the DPC also has to oversee matters of common interest between *panchayats* and municipalities, including spatial planning, sharing of physical and natural resources, the integrated development of infrastructure, environmental conservation, and assessment of the extent and type of available resources.

A metropolitan region cuts across the jurisdiction of multiple local governments – urban and rural. The major city within such a region exerts considerable pressure on fringe areas in several ways. An integrated approach is necessary to address the development needs of such regions. Against this background, Article 243ZE of the Constitution provided for the establishment of a Metropolitan Planning Committee (MPC) for each designated metropolitan area.

The MPC is the ultimate planning organization in a metropolitan area. It prepares a metropolitan plan after consolidating the plans of each municipality and *panchayat* within that metropolitan area. Like the DPC, it also oversees matters of common interest between the rural and urban areas. These include spatial planning, sharing of water and other physical resources, integrated development of infrastructure, and environmental conservation. In preparing the metropolitan plan, the MPC also takes into account investments likely to be made in the metropolitan area by agencies of the Government of India and of the state government.<sup>23</sup>

Managing growth in metropolitan agglomerations involves several departments and agencies of both the Union and state governments. Because of the variety of tasks, multiple organizations have the responsibility to discharge various functions; therefore, such multiplicity is inevitable. The MPC has been conceived as an intergovernmental, interorganizational collaborative platform involving the local, state, and federal governments for preparation of a development plan for a metropolitan area in association with its main city.

Although fifteen states have metropolitan areas, only eight states (Karnataka, Kerala, Maharashtra, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, and West Bengal) have passed enabling laws for the constitution of MPCs. The Kolkata Metropolitan area in West Bengal was the first to set up an MPC in 2001. As a case study, let us examine its functioning.

The Kolkata Metropolitan Planning Committee (KMPC) consists of sixty members, forty of whom are representatives elected from among all the elected councillors of the forty municipalities and from among the chairpersons of the 133 village *panchayats*, intermediate *panchayat samitis*, and district *parishads* within the Kolkata Metropolitan Area (KMA). Of these forty elected members, six belong to rural areas and the rest to urban ones. The remaining twenty members are nominated by the Union government, state government, and other organizations related to planning and development. The Kolkata Metropolitan Development Authority (KMDA) – a professional organization created originally for planning and implementing schemes for the Kolkata Metropolitan Area – is the secretariat of the KMPC, and the secretary of the KMDA has been appointed as its secretary. The Executive Committee of the KMPC is headed by the urban development minister of the state government. The KMPC has five sectoral committees for (1) drainage, sewerage,

and sanitation; (2) traffic, transportation, railways, and waterways; (3) water supply; (4) education, health, employment, and *bustees* (slums); and (5) environment, wetlands, urban amenities, and heritage.<sup>24</sup>

Apart from the local government institutions and the MPC, some other bodies, such as the West Bengal Housing Board and the Housing and Infrastructure Development Corporation, pursue their own programs within the metropolitan area. Coordination between them and the MPC is an important issue. To mitigate the problem, the KMDA has formulated a vision document and a perspective plan, which all the agencies, including the local government institutions, have to keep in mind when preparing their own development plans.

#### FINANCING LOCAL GOVERNMENT

Under the Constitution, state governments are required to endow the *panchayats* and municipalities with financial powers and functional responsibilities.<sup>25</sup> It is thus the state governments that decide the fiscal resources available to both rural and urban local governments in the form of the taxes, duties, tolls, and fees they collect as well as the grants-in-aid they receive.

The revenue of local government may be broadly classified as deriving from four sources: (1) the consolidated fund of the state as per the recommendations of the State Finance Commission, (2) the Union government through Union-sponsored schemes, (3) grants-in-aid as per the recommendations of the Union Finance Commission, and (4) own-source revenue.

Own-source revenue contributes the least to the coffers of local governments. There are a number of taxes that local governments may impose, with much interstate variation. By and large, the main own sources of revenue for rural local governments are the professional tax, property tax, cess (i.e., assessment over and above the existing tax) on land revenues, surcharge on additional stamp duty, tolls, advertisement tax, octroi (i.e., tax on goods entering a municipality/*panchayat*), non-motor-vehicle tax, and user charges. These sources contribute only 6% to 7% of their total expenditure. Village *panchayats* have powers to levy most of the taxes, but a few items are given to intermediate and district *panchayats*.<sup>26</sup> In general, the tax base covers property, persons, and business. There are also a large number of fees, charges, and other non-tax-revenue items.

For municipalities, the main sources of income are taxation, grants-in-aid from the state governments, shares of taxes levied and collected by state governments, and nontax revenue from municipal undertakings. The taxes are mainly on property, buildings, land (including open land), vehicles, animals, boats, professions, trades, callings, and employment. There is also a terminal tax on passengers, including the pilgrimage tax, and there is the theatre or show tax. In most states, the property tax and the share of

receipts from the entertainment tax form the main sources of income. Nontax revenue consists of fees, fines, and income from public undertakings, such as tramways, buses, and distribution of electricity.

The finances of local governments are not in good shape. The own tax revenue of the local governments of fifteen major states as a percentage of these states' own tax revenue plus local tax revenue was only 3.97% in 2002–03. The own-source revenue (i.e., tax and nontax revenue) of local governments (*panchayats* and municipalities) as a proportion of combined tax and nontax revenue of the federal, state, and local governments for 1998–99 was 1.9%, and it remained so in 2002–03.

The authority of local bodies to levy taxes is determined by the state government concerned, which also decides whether it wants to share revenue from certain taxes with local bodies. For example, in Kerala, stamp-duty and land-tax revenue is shared between the local governments and state government.

The potential for local governments to tap local revenue sources remains unexploited. According to a study conducted by the Centre for Development Studies on the mobilization of resources by *panchayats*, even in Kerala, which is a front-running state with regard to fiscal decentralization, less than 40% of the revenue potential from property tax, professional tax, and entertainment tax is mobilized.<sup>27</sup> Andhra Pradesh, Haryana, and Punjab have not yet exploited the huge potential of land-tax revenue. It may be noted that the poor tax performance of local governments can be attributed mainly to the following factors: inadequate tax assignments, the less elastic nature of those taxes, low tax rates imposed by the state or local governments, the absence of adequate staff support for tax collection, and the unviable size of village *panchayats*. Overall, local government institutions are not free to change the tax policy.

The same applies to local borrowing, with local government institutions having very limited borrowing powers. State governments have the flexibility to determine the framework within which local governments can borrow from the market. Urban local governments are permitted to borrow from state finance institutions as well as from the market. Rural local governments, however, do not have the freedom to borrow from the market, but interstate variations in respect of their freedom to borrow from the state financial institutions do exist. Some state Acts (e.g., the Kerala Panchayati Raj Act) empower *panchayats* to borrow from finance institutions, subject to clearance by the state government. In West Bengal prior approval from the state government is not required for *panchayats* to borrow from financial institutions. In a few states, *panchayats* are not permitted to borrow from any financial institution. Borrowings by a municipality were governed by the Local Authorities' Loan Act 1914, which specified the purposes for which local bodies may take out a loan, its

amount, duration, repayment procedures, and so on.<sup>28</sup> Today, several other statutes – such as the Public Debt Act 1944 and the Companies Act 1956 – and regulations of the Securities and Exchange Board of India control local government borrowings.

Up to the mid-1990s municipalities raised loans primarily from financial institutions. In 1996, for the first time, the Credit Rating Information Services of India assigned an A+ credit rating to a bond of 1 billion rupees (US\$28.5 million) issued by the Ahmedabad Municipal Council in Gujarat. Since then, urban local governments have tapped capital markets by issuing municipal bonds. Whereas some of them issue municipal bonds with a state government guarantee, the municipal corporations of Ahmedabad, Kolkata, Ludhiana, Nagpur, and Nasik access the capital markets without a state government guarantee. Experience shows that only bigger municipalities are in a position to mobilize resources from the market and financial institutions, whereas medium-sized and smaller municipalities are unable to do so.<sup>29</sup>

Local governments receive both tied and untied grant funds. As most of the revenue comes from the Union government and the states, key institutions in the financing of municipalities are the Union Finance Commission and the various state finance commissions. The Union Finance Commission suggests measures needed to augment the consolidated fund of a state in order to supplement the resources of local government on the basis of the recommendations made by the finance commission of the state.<sup>30</sup>

The grant allocation for rural local governments by the Union Finance Commission is based on certain criteria, which have varying weightings, such as (1) population, (2) geographic area, (3) the difference between a rural locale's per capita gross domestic product (GDP) and the highest per capita GDP among all the rural locales in a state, (4) own-source revenue efforts of the municipalities in a state, using the state's own-source revenue as an indicator, (5) own-source revenue efforts of the municipalities in a state, using the state's GDP as an indicator, (6) index of decentralization, (7) distance, (8) revenue efforts, and (9) deprivation index.

It is mandatory for the state governments to constitute state finance commissions (SFCs) under Articles 243I and 243Y of the Constitution.<sup>31</sup> The SFC determines for its state the principles on the basis of which financial allocations can be made by that state to the *panchayats* and municipalities. The SFCs recommend transfers of financial resources from state governments to local governments in the forms of tax shares, grants-in-aid, and tax assignments. The SFCs review the finances of local bodies in accordance with their functional responsibilities and fix the size of the divisible pool based on the functional domains of the state, *panchayats*, and municipalities. They evaluate the vertical gap, taking into account the tax assignments and expenditure assignments. The objective of every SFC is to reduce the horizontal fiscal imbalance in the state. SFCs recommend measures for improving the financial position

of both rural and urban local governments, and these recommendations are mainly related to assignments and sharing of taxes, duties, tolls, and fees. They also recommend the distribution of grants from the consolidated funds of the states.

In all the states the first and second SFCs have submitted their reports, and in a few states the third SFC reports are also ready. To a large extent, the recommendations of the SFCs have been accepted by the state governments. Even so, most of the state governments have not cared to implement the recommendations.

By and large, local governments are still at the mercy of the states. All states have empowered the local governments to levy taxes, such as on property, professions, and entertainment, but the rates are not fixed by them, nor is provision made for any exemptions.

The composition of the state finance commissions does not follow any specific pattern, nor is there any criterion for it, as there is in the case of the Union Finance Commission, for which a separate Act exists. The SFCs use different means to determine the resource requirements of the local governments and to accommodate the horizontal fiscal balance. But in the absence of clear expenditure assignments, SFCs face problems as far as such assessments are concerned. For example, village *panchayats* in Andhra Pradesh, Madhya Pradesh, and Rajasthan neither impose nor collect the taxes that they are authorized to levy because they perceive such actions as unpopular with the people.

It may be noted that the Twelfth Union Finance Commission devoted much attention to strengthening the fiscal domain of local government. It discouraged the reluctance of various local governments to generate their own sources of revenue. The commission held that “the principle of equalization extended to the local governments would mean that while lack of fiscal capacity at the State level as well as the local level can be made up, lack of revenue effort should not be made up.”<sup>32</sup>

The total expenditure of local governments (both *panchayats* and municipalities) as a proportion of the combined expenditure of federal, state, and local governments amounted to about 6.4% in 1998–99 and 5.1% in 2002–03.<sup>33</sup> State variations are quite visible in respect of the controls that state governments exert over the expenditure of local government institutions. For example, local governments in Kerala are required to maintain a minimum of 5% of the total budget as surplus every year. By and large, huge unspent balances are left with local governments in most states and Union Territories. A significant share of the available funds remains unutilized in two Union Territories – Chandigarh as well as Andaman and Nicobar Islands – due to a lack of both functions and functionaries.

Municipal expenditures on salaries and wages in many states exceed the revenue received by them from taxes, levies, and duties. These states

include Himachal Pradesh, Madhya Pradesh, Rajasthan, Uttaranchal, Uttar Pradesh, and West Bengal. Moreover, more than 50% of municipal expenditure is on salaries and wages, leaving a small amount for providing basic services.

Several states have set up local fund-audit departments to conduct regular audits of the accounts of local governments. In fact, Article 243J of the Constitution provides for the audit of the accounts of *panchayats*; similarly, Article 243Z provides for the audit of the accounts of municipalities. The accountant-general in a state, who is the principal officer of the comptroller and auditor-general of the Government of India, gives technical support to many local fund-audit departments to improve the quality of their audits. In addition, the accountant-general occasionally conducts the audit of the accounts of local government institutions that have a budget size above a prescribed level. Moreover, a social audit and an independent evaluation of the performance of local governments also function in several states. The independent evaluation is conducted by committees of eminent citizens, constituted by the people.

Fiscal relations between the states and local governments remain complex. The asymmetry in their functional and fiscal jurisdictions is a major area of concern. State laws limit the autonomy of municipal governments in deciding their tax policies, including tax rates, charges, fees, and exemptions. The absence of autonomy in matters related to tax policies, staff salaries, and borrowings is a major handicap of local governments in managing their finances. In many cases, *panchayats* must get permission from the local authorities to even spend the available funds. In some states, expenditure beyond a specified amount is subject to clearance. For instance, village *panchayats* in Kerala can undertake a project worth up to RS100,000 (US\$2,064) without any clearance.<sup>34</sup>

#### SUPERVISION OF LOCAL GOVERNMENT

The Union Parliament set the broad parameters of local governance by passing the two constitutional amendments. The extent of the Union government's supervision is to monitor whether the state governments are following the constitutional provisions, such as the basic composition of local governments (i.e., reservation of seats) and their duration. For the settlement of all disputes, and to obtain clarification of the Constitution, the Union government has to approach the judiciary.

Local government functions under the state governments. The latitude of freedom of local government is severely restricted because the Constitution gives the state governments all powers over local government. For instance, the legislature of a state may, by law, make provision for all aspects of *panchayats*, from their composition to their financing.



Senior officers of the Indian Administrative Service are the administrators of districts, which fall directly under the state governments. Several states have given the district collector supervisory powers over the local governments; they can set aside *panchayat* decisions and even dismiss the local governments and appoint administrators in their place. State civil servants and district collectors often compete with elected representatives of local governments; thus they are not keen to devolve functions and powers from the states to the local governments.

Broadly, the checks and balances in terms of state control over local government institutions can be categorized as follows:

- power to cancel or suspend a resolution of a local body
- power to take action when a *gram panchayat* is in default
- power to remove elected representatives
- power to dissolve *panchayats*
- power to give direction to *panchayats*
- power to call for records and inspection
- power to conduct an enquiry

The state *panchayat* Acts empower government officials at various levels to remove elected members and presidents of *panchayats* or other functionaries. There have been instances of elected representatives being removed by authorities designated for this task under the relevant state laws. The circumstances warranting removal include grave misconduct, financial irregularities, and failure to carry out instructions. The correctness of such removal has often depended on whether procedures have been adhered to. In Kerala, although the power of removal rests with the state government, an enquiry by the office of the state ombudsman and its ensuing advice are prerequisites for removal. The issue of removal is often legally suspect, and many cases challenging such state action are pending in the courts.

As a result, serious questions are being raised about whether a democratically elected member or president should be removed by a state government official. Although the “no confidence motion” is the accepted democratic norm to remove a president, rivalry between the ruling and opposition parties very often results in state officials taking steps to remove elected members or presidents of *panchayats*.

#### INTERGOVERNMENTAL RELATIONS

Since the enactment of the 73rd and 74th Amendments to the Constitution, rural and urban local governments have had well-defined domains of governance. Owing to the mismatch between the powers of taxation and responsibilities in the three orders of government, the Constitution calls

for the Union to transfer resources to local administrations. The path for the devolution of funds has been clearly laid out; it is from the Union to states and from the states to the rural *panchayats* and urban municipalities. The state planning boards with chief ministers as chairpersons look into the issues related to the development and finance of local governments. Overall, however, intergovernmental relations are exclusively between the state governments and local governments.

Organized local government is as yet underdeveloped in India. Since 1960 there have been concerted attempts to bring the leaders of *panchayats* and municipalities together in a forum. The oldest forum is the All India Panchayat Parishad, followed by the All India Council of Mayors. Since the 73rd and 74th Amendments came into force, there have been attempts to set up state-specific associations, as well as associations based on various categories, such as women, *dalits* ("untouchable" caste), and tribes. The latest development was the registration of the Association of the Local Governance of India (ALGI) in May 2007. These are forums for demanding rights and also for engaging the state governments on issues related to the functioning of the *panchayats* and municipalities.

#### POLITICAL CULTURE OF LOCAL GOVERNANCE

When India became independent, there was a powerful idea, inspired by Mahatma Gandhi, that *panchayats* should be "nonpolitical," meaning that political parties should be kept out of the functioning of local governments and their elections. Consensus was considered the best way to arrive at decisions. Gandhians were critical of political parties because they believed that parties impede the spirit of self-government and the liberation of local initiative.

But another school of thought believed that the participation of political parties in local elections is both healthy and educative because unanimity and consensus mean continuation of domination by the traditional authorities and suppression of the new spirit of the youth.

The *Report of the Committee on Panchayati Raj Institutions* (1978) unequivocally stated that political parties should be allowed to participate effectively in all spheres of government because it "would make for a clearer orientation towards programmes and would facilitate healthier linkages with higher level political processes."<sup>35</sup> It is further argued that the participation of political parties in local elections would "provide constructive outlet" for the parties that are not in power in the state sphere, enabling them to chalk out plans for program-based contests in the districts. This process, therefore, offers greater scope for weaker sections of society to avail themselves of the opportunities offered by the political system.

Today, the accepted principle is that when the whole nation is ruled by political parties, local governments cannot exist and grow in a nonpolitical

set-up. Given that all governance is local, and since local governance is inextricably linked with the national, no *panchayat* or municipality can engage the crucial issues of the social and economic forces of the day without support from the political class. In a multiparty democracy, then, when local governments are envisaged as the basic units of the democratic edifice, they are destined to be political. After all, issues of economic development and social justice emanating from local governments are not devoid of any ideological orientation.

The first state to hold local elections with official political party candidates was West Bengal. Today, in almost all the states, candidates with political-party affiliation, directly or indirectly, contest elections in all arenas – from the village to the district. As a result, the discussions and debates about local issues in public places are elevated to the level of political ideologies, and assessments are made of the balance sheets of political parties and the track records of political leaders. Local government elections are proving to be a churning process of ideas and action that creates a high level of political awareness. In fact, local governments are seen as nurseries for political leadership. Young blood is often attracted to local government institutions, as elections are based on political currents and ideology and inspired by state, as well as national, leadership. Wherever official parties have been involved in local governments, the enthusiasm of local people has been high; the percentage of voting has been unprecedented.

Now, every five years, about 2,897,333 representatives, of whom 1,059,989 are women, are elected by the people through the democratic process. Women head about 198 district *panchayats*, 1,970 block/*tehsil/mandal panchayats*, and about 77,210 village *panchayats*. Likewise, 34 city corporations, 476 town municipalities, and 670 *nagar panchayats* have women chairpersons. A large number of excluded groups and communities are now included in decision-making bodies. According to the Census of India (2001), the Scheduled Castes comprise 16.2% of the total population, and the Scheduled Tribes account for 8.2%. Presently, 853,931 members (29.47%) are elected to the *panchayats* from the SC/ST communities.

The national, state, and numerous other registered political parties play a significant role in the election process. On average, three times the number who are elected contest the elections, either directly with official party symbols or indirectly with party support.

Prior to the constitutional amendments of 1992, the democratic institutions in India were more like a superstructure without a base, but now democracy has become deep-rooted, with an attractive edifice giving it a wider base and stronger foundation.

Elections to *panchayats* attract the largest number of voters. For instance, in the latest elections held in the five states of Chattisgarh, Karnataka, Madhya Pradesh, Rajasthan, and Haryana, the average turnout was

73.2% (with Haryana showing 80%).<sup>36</sup> The elections for Parliament and the state assemblies record lower voter turnout. The 1999 parliamentary election had a 59.99% turnout, and in 2004 it was 58.07%. The state assemblies' average turnout, according to the latest estimate, is 62.94%, ranging from Jammu and Kashmir with 43.7% to West Bengal with 81.97%.<sup>37</sup>

Because of the political nature of elections, violence is frequently observed in local government elections. However, the rate of violence in the context of elections appears to be decreasing. For instance, in 1978 when *panchayat* elections were held in Bihar, 750 persons lost their lives, but in the 2001 elections the number came down to 136, and in the 2006 elections it was 50. Although proximity of people to the candidates, their conflicting interests, and party affiliation, as well as traditional rivalries, play a role in the escalation of violence, positive changes have been taking place as a result of the healthy democratic process.

#### LOCAL GOVERNMENT'S ROLE IN THE EVOLUTION OF THE FEDERAL SYSTEM

The 73rd and 74th Amendments have had a major impact on India's concept of federalism. India is slowly becoming a multilevel federation with elected local governments at the district level and below. But only when the subjects mentioned in the Eleventh and Twelfth Schedules (listing local government functional areas) are removed from state control will these schedules assume a status equal to that of the Union and State Lists of functional areas in the Seventh Schedule. However, the qualitative change that has come about in the Indian federal structure is a matter of debate and discussion today.<sup>38</sup>

The strong undercurrent of thinking and advocacy vis-à-vis local government has been that a genuine federal structure hinges on decentralization to substate arenas.<sup>39</sup> Multilevel arrangements in India, therefore, represent the ongoing search for new modes of adaptation to the pressure created by democratic development and contribute to making the federal system more responsive. India is opening up the possibilities for moving from a two-order federation (Union and states) to a multiorder one. The Constitution does not mention anywhere that *panchayats* and municipalities are the third order of government. Therefore, *de jure*, the Union and the states constitute the federal system, but *de facto*, the local governments have become the third order of governance because they have been defined as the institutions of self-government.

The autonomous councils could be considered additional orders of government because they are *de jure* and *de facto* federal units created to satisfy substate aspirations. However, they are located only in certain areas, are

selectively applied, and are at varying stages of autonomous functioning. Even so, all these innovative substate arrangements helped to give new meaning and content to Indian federalism when *panchayats* and municipalities became institutions of self-government throughout the country.

There is a view that the 1992 Constitution amendment Acts only strengthen administrative federalism and nothing more. The argument is that the amendment Acts strengthen administrative federalism in order to facilitate and encourage the states' delegation of administrative and financial powers to local governments. However, the administrative powers and responsibilities of local governments, and their financial resources to exercise these powers and to discharge their responsibilities, are entirely derived from legislation that will have to be passed by the states. As they have no definite executive, legislative, financial, or judicial powers, then according to this school of thought, merely having constitutional status or regular elections does not confer on them the status of the third order of governance. However, one can say that the scope of the democratic and political processes that have taken place hitherto in the political structure have gone beyond administrative federalism.

States, in contrast to their claims for autonomy in their federal-state relations, are reluctant to devolve powers to their intrastate institutions. The states have not complied with the requirements of transferring "functions, functionaries and funds" to local governments. There have even been instances when funds received from the Union government and earmarked for local governments have been diverted by state governments for their own immediate needs. As a result of the growing frustrations of the Union and local government institutions in this regard, there was even a move to ensure that the Union government fund the district *panchayats* directly.<sup>40</sup> On 29 June 2004 the prime minister of India, at a meeting of the Conference of Chief Ministers and State Ministers in Delhi, proposed that the Union government adopt a system of providing block grants directly to district local governments. In response, there were protests from the states, which argued that it would take away the constitutional power of the states.<sup>41</sup> That is to say, in India's federal structure, there is no room for the Union government to deal in any manner – be it in the design of programs, fund allocation, or monitoring – directly with local governments.

On the other hand, to bypass the local governments, the Union ministries and state departments concerned with various rural development programs, such as agriculture, health, education, women, child development, and welfare, are setting up parallel structures, mostly parastatal bodies, at the district level. They are registered societies, and funds are placed at their disposal, enabling them to undertake many Union-sponsored or state-sponsored schemes. They have staff, who belong to the state departments, going right down to the villages. Some of the active parallel structures

are district rural-development agencies, watershed-development programs, joint forest-management committees, district primary education programs, and several other state-specific institutions and programs. All these are controlled by a minister from the state government, members of the legislative assembly, and members of Parliament (in their electoral constituencies), along with the district collector and other officials. *Panchayat* presidents or representatives may also be members but without any power.

In this context, the National Commission to Review the Working of the Constitution (2003) recommended further amendments to the Constitution to make *panchayats* and municipalities effective “institutions of self-government.” Devolving exclusive functions, assigned to them with financial resources (separate tax domains) to enable them to function as viable local government institutions, was the thrust of the commission’s recommendation.<sup>42</sup>

The constitutional amendments were a necessary condition for bringing local government to centre stage. But in order to implement them, both in letter and in spirit, and to effect the desired results, political will was the most important factor. However, in many situations the absence of political will on the part of the ruling parties has unfortunately left the local government system as a form without content. Local government comes under the domain of the states, and members of the legislative assemblies are unwilling to devolve powers to local governments.

The provisions of the Constitution have not sufficiently provided for an integrated administration that works under the elected bodies, from villages and towns to the Union. The division between rural and urban local governments, effected by the two amendments, has created serious administration and governance problems. Management and administration of institutions in a district, maintenance of services, transfer of administrative staff, and several other related issues are creating unfavourable situations for *panchayats* and municipalities. A major issue is that of coordination between rural and urban local governments, as well as between the Union and various state government agencies operating in the local area or in the district. Many local functions, including law and order, are performed by the district administration, which is part of the structure of the state government.

The historical significance of India’s multilevel federalism is not yet understood in its entirety by those concerned with the nation’s governance. In 2007, while India was celebrating the sixtieth anniversary of its independence, there was a call from civil-society organizations for a new culture of governance.

Bottom-up planning has not been institutionalized in the majority of states, and district planning commissions have still not been set up. Therefore, on 24 October 2005 and 25 August 2006 the Planning Commission of

India sent circulars to all state governments outlining detailed guidelines on bottom-up planning through *panchayats*, municipalities, and district planning committees, in conformity with the constitutional provisions.<sup>43</sup>

Today, because of the new local government system (and in spite of stiff opposition), there is much greater recognition of gender equality, women's position in society, and women's participation in decision making. In the latest elections for the local governments in Bihar, 54% of those elected were women, a statistic that many consider to be a trendsetter. In fact, the theme of women's representation in Parliament and state assemblies was triggered by the affirmative action in *panchayats* and municipalities.

Since the new generation of *panchayats* became operational, the hopes and aspirations of the poor and deprived have risen. Their participation in village assemblies and in elections is relatively higher than participation by the members of other sections of society. The poor and marginalized are moving to centre stage, although the pace is slow. It is no small achievement that nearly 800,000 men and women from the former untouchable castes and tribes are being elected every five years and that thousands of them are heading *panchayats* and municipalities where they themselves, or an earlier generation, were not even allowed to sit on a chair. India's once hierarchically ordered society is slowly but steadily adjusting to egalitarianism.

Many innovative ideas and programs have followed the new local governments. The People's Plan in Kerala, e-governance in village *panchayats*, the idea of social audits, new accountability mechanisms, and so on have all been made possible through the atmosphere created by the new *panchayats*. There is also more awareness about the need for checks and balances to make local governments free from corruption.

One of the most discernible impacts of the *panchayati raj* system is on governance, which is now more structured, accountable, and transparent. The right to information has created a transparency mechanism, which has a bearing on corruption. As a result, the new system has fared better than before *panchayats* and municipalities acquired constitutional status. Apart from official audits, there are village assemblies in *panchayats* and ward meetings in municipalities where citizens can question the working of local government. Social auditing is now in vogue throughout the country. Because local governments are nearer to the people, the local community is better able to connect with them. But the change has not been uniform across the country.

Last but not least, local government has become the subject of debate and discussion. If at one time it was a matter of concern to only a few thinkers and idealists, it is now of central concern not only to the nearly 3 million people who are elected but also to political parties, civil-society organizations, university departments, bilateral and multilateral organizations, and above all, the common people.

NOTES

- 1 Government of India, Ministry of Information and Broadcasting, *India 2007* (Delhi: Government of India, Publications Division, 2007), 1.
- 2 The Union Parliament has powers to create states and Union Territories (UTs), to merge states and UTs, and to change their boundaries. UTs are directly governed by the Union government. They include the National Capital Territory of Delhi, which has special status as a state. The total area of the seven UTs is 8,998 square kilometres, and the population is 1,696,131. The UTs were created for those small and far-flung areas having special colonial and cultural heritage (i.e., Andaman and Nicobar, Dadra and Nagar Haveli, Daman and Diu, Lakshadweep, and Puducherry), as well as for an area coming under interstate dispute (i.e., Chandigarh).
- 3 For detailed discussions of various aspects of Indian federalism, see Akhtar Majeed, "Republic of India," in *Constitutional Origins, Structure, and Change in Federal Countries*, ed. John Kincaid and G. Alan Tarr, 180–207 (Montreal and Kingston: McGill-Queen's University Press, 2005); George Mathew, "Republic of India," in *Distribution of Powers and Responsibilities in Federal Countries*, ed. Akhtar Majeed, Ronald L. Watts, and Douglas M. Brown, 155–80 (Montreal and Kingston: McGill-Queen's University Press, 2004); Rajeev Dhavan and Rekha Saxena, "Republic of India," in *Legislative, Executive, and Judicial Governance in Federal Countries*, ed. Katy Le Roy and Cheryl Saunders, 165–97 (Montreal and Kingston: McGill-Queen's University Press, 2006); and M. Govinda Rao, "Republic of India," in *The Practice of Fiscal Federalism: Comparative Studies*, ed. Anwar Shah, 155–77 (Montreal and Kingston: McGill-Queen's University Press, 2007).
- 4 Rakesh Hooja and Sunil Dutt, eds, *Evolving Role of Collector and District Administration* (New Delhi: Kanishka, 2008).
- 5 Rekha Saxena, *Situating Federalism: Mechanisms of Intergovernmental Relations in Canada and India* (New Delhi: Manohar, 2006), 250–312.
- 6 Quoted in H.D. Malaviya, *Village Panchayats in India* (New Delhi: All India Congress Committee, Economic and Political Research Department, 1956), 144.
- 7 Quoted in *ibid.*, 221.
- 8 George Mathew, "Panchayati Raj in India: An Overview," in *Status of Panchayati Raj in the States and Union Territories of India, 2000*, ed. George Mathew, 3–22 (New Delhi: Institute of Social Sciences and Concept Publishing Company, 2000), 5.
- 9 M.K. Gandhi, "My Idea of Village Swaraj," *Harijan*, 26 July 1942.
- 10 Constitution, Article 40.
- 11 *Report of the Team for the Study of Community Projects and National Extension Service* (New Delhi: Government of India, 1957), 23.
- 12 *Hindustan Times* (New Delhi), 3 October 1959.
- 13 K.C. Sivaramakrishnan, *Power to the People* (New Delhi: Centre for Policy Research and Konark Publishers, 2000), 42. This book gives the inside story of the constitutional amendment saga.



- 14 Constitution, Article 244(1).
- 15 Constitution, Article 243G.
- 16 Ibid.
- 17 Constitution, Article 243W.
- 18 M.A. Oommen, "Fiscal Decentralization to the Sub-State Level Governments," *Economic and Political Weekly*, 11 March 2006, 898.
- 19 Only very recently, the West Bengal government issued an order saying that mayors and presidents must be employed full time.
- 20 Archana Ghosh, "Mayor-in-Council System in a Comparative Perspective: Issues and Recommendations," in *Mayor-in-Council System in a Comparative Perspective*, ed. Archana Ghosh, 1-6 (New Delhi: Institute of Social Sciences, 2000), 3.
- 21 Speech of Prime Minister Rajiv Gandhi introducing the 64th Amendment Bill in the Lok Sabha on 15 May 1989; see Lok Sabha, *Debates*, vol. 52, 38.
- 22 Rakesh Hooja, "Decentralised Planning and the District Level," in *Decentralised Planning in Multilevel Framework*, ed. Rakesh Hooja and B. Yerram Raju, 3-29 (Jaipur: Rawat, 1993); Rakesh Hooja and Meenakshi Hooja, *Democratic Decentralization and Planning* (Jaipur: Rawat, 2007).
- 23 Prabhat Datta, *Urbanisation and Urban Governance in West Bengal* (Kolkata: Government of West Bengal, Department of Municipal Affairs, Institute of Local Government and Urban Studies, 2000).
- 24 Archana Ghosh and Anurima Mukherjee Basu, "Urban Governance in Kolkata: Actors, Policies and Reform," paper presented at the "Seminar on Urban Actors, Policies and Governance in Four Indian Mega-Cities," Indo-European Research Programme, New Delhi, 23 to 24 January 2007.
- 25 Constitution, Articles 243H and 243X.
- 26 M.A. Oommen, "Basic Services, Functional Assignments and Own Revenue of Panchayats," Occasional Paper Series No. 33, Institute of Social Sciences, New Delhi, 2004.
- 27 R.P. Nair, "Mobilisation of Resources by Panchayats: Potential and Feasibilities, a Case Study of Six Selected Panchayats in Kerala," Discussion Paper No. 70, Centre for Development Studies, Trivandrum, 2004.
- 28 Om Prakash Mathur, "Local Government Organization and Finance: Urban India," in *Local Governance in Developing Countries*, ed. Anwar Shah, 169-204 (Washington, DC: World Bank, 2006).
- 29 Abhay Pethe and Lalvani Mala, "Towards Economic Empowerment of Urban Local Bodies in Maharashtra," *Economic and Political Weekly*, 18 February 2006, 635-41.
- 30 Constitution, Article 280(3bb) and (3c).
- 31 The governor of the state appoints or constitutes the State Finance Commission for a term of five years. The creation of a Finance Commission was inspired by Article 280 of the Constitution, which provides for a Finance Commission to be set up every five years by the president of India to make recommendations about the division between the Union and the states of the net proceeds of the taxes and about other related financial measures.

- 32 Government of India, *Report of the Twelfth Finance Commission (2005–10)* (New Delhi: Government of India, 2004).
- 33 Oommen, “Fiscal Decentralization.”
- 34 Shikha Jha, “Panchayats: Functions, Responsibilities and Resources,” paper presented to the National Institute of Rural Development, Hyderabad, 23 January 2004. Exchange rate at 1 June 2007.
- 35 Government of India, Ministry of Agriculture and Irrigation, *Report of the Committee on Panchayati Raj Institutions* (New Delhi: Government of India, August 1978), 52.
- 36 Institute of Social Sciences, *Panchayati Raj Update* (2005).
- 37 Reports of the Election Commission of India.
- 38 Balveer Arora, “Adapting Federalism to India: Multi-Level and Asymmetrical Innovations,” in *Multiple Identities in a Single State: Indian Federalism in Comparative Perspective*, ed. Balveer Arora and Douglas V. Verney, 71–104 (New Delhi: Konark Publishers, 1995).
- 39 George Mathew, “Institutions of Self-Government in India: Towards Multilevel Federalism,” *Review of Development and Change* 2, no. 2 (July–December 1997): 276–93; Nirmal Mukarji, “The Third Stratum,” *Economic and Political Weekly*, 1 May 1993, 859–62.
- 40 United Progressive Alliance, “Common Minimum Programme,” 27 May 2004, 9. See also “Power to Panchayats,” editorial, *Times of India* (New Delhi), 1 July 2004.
- 41 Institute of Social Sciences, “Panchayati Raj Update,” June 2004; *The Hindu*, 21 July 2004.
- 42 *Report of the National Commission to Review the Working of the Constitution* (New Delhi: Universal Law Publishing Company, 2003).
- 43 Rakesh Hooja, “Reflections Occasioned by New Guidelines for District Planning by Panchayati Raj Institutions,” *Man and Development* 28, no. 4 (December 2006): 115–28.