

Challenges to Good Urban Governance and Role of Urban Local Bodies

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Abstract

There has been a huge migration of rural population in urban parts of India in last three decades. Factors like growing economic prosperity in cities, poor employability in agricultural sector and aspiration for better standards of living are major drivers for consistent increase in urban population. The administration of urban affairs is managed by multiple agencies working under the aegis of central, state and local governments. The poor condition of urban infrastructure and lack of civic facilities for majority of population in cities warrants for review of existing urban policies and working of agencies handling urban administration. By virtue of the 74th constitutional amendment, the provisions were made for empowerment of municipal bodies and for greater public participation in the process of governance. This article discusses the salient features of good urban governance and issues and challenges in implementation of governance practices in India. The author has also made an attempt to evaluate the role played by the urban local bodies in making the urban governance more effective and people oriented. The state governments have not been very forthcoming in vesting of powers with the municipal bodies and these institutions are performing very basic civic services. The remedies and alternatives for fulfilling the objectives envisaged by 74th constitutional amendments have also been proposed by the author in this article.

I. INTRODUCTION

...Governance is the sum of the many ways individuals and institutions, public and private, manage their common affairs. It is a continuing process through which conflicting or diverse interests may be accommodated and co-operative action may be taken.¹ The UN-Habitat² defines 'urban governance' as under³:

"Urban governance is the enabling environment that requires adequate legal frameworks, efficient political, managerial and administrative processes to enable the local government response to the needs of citizens. It can be defined as the many ways that institutions and individuals organize the day-to-day management of a city, and the processes used for effectively realizing the short term and long-term agenda of a city's development. Urban governance is the software that enables the urban hardware to function. Effective urban governance is characterized as democratic and inclusive; long-term and integrated; multi-scale and multilevel; territorial; proficient and conscious of the digital age."

There are several issues affecting quality of urban life such as poor urban planning and insufficient civic and urban infrastructure in terms of housing, water supply, sewerage, drainage, health facilities, transportation, environment protection and solid waste management etc. There are multiple agencies involved in providing civic amenities and urban infrastructure in Indian cities. Lack of financial autonomy to the municipalities/urban local bodies and co-ordination amongst the state agencies involved in administration and management of urban affairs make the process of urban governance a challenging task for all stakeholders. There is a constant increase in urban population in last six decades due to increased employment opportunities, and better standards of living in cities. However, due to haphazard urban development, mushrooming of slums, increasing level of air pollution, deteriorating standard of education and inefficient waste management, questions are being raised about the sustainability of urban areas and this is a serious concern for good urban governance⁴.

¹ Defining Urban Governance (Nov. 20, 2017, 11.00AM), <https://www.gdrc.org/u-gov/governance-define.html>.

² UN-Habitat is the United Nations programme working towards a better urban future.

³ UN-Habitat, *Governance* (Nov. 20, 2017, 10.00AM), <https://unhabitat.org/governance/>.

⁴ The Preparatory Committee for the United Nations Conference on Housing and Sustainable Urban Development (UN Committee), in its policy paper 4: Urban governance, capacity and institutional development, have pointed out the challenges for urban governance in the following words:

"The globalization of economies and value systems, population growth and rapid urbanization, the threat of climate change and environmental degradation, increasing inequalities, global migration, global health risks and the impact of new technologies have all been reshaping the challenges facing the governance of cities and their societies..."

The aim of good urban governance is greater people participation and involvement, efficient urban management, accountability, transparency and accessibility. An effective implementation of urban development process requires a good urban governance mechanism. The process of urban development is intimately linked with the system of governance, which articulates the participation of civil society, address the issues of transparency and ethics and democratic centralization of decision making process. It has direct bearings on the aspects of environment, urban poverty, infrastructure/basic services, equity and capacity building and the resources.⁵ There is a three-tier system of governance in India – (i) central government, (ii) state government, and (iii) local governments (the Panchayats and the Municipalities). By way of 74th Constitutional Amendment Act, 1992, the urban local bodies have been given a greater role in urban planning and governance. Article 243P to 243ZG of the Constitution of India deal with the various aspects related to municipalities. The state legislatures may vest the municipalities with the necessary powers and authorities for enabling them to perform functions listed in 12th Schedule of the Constitution such as urban and town planning, regulation of land use, planning for social and economic development, slum improvement and upgradation, urban poverty alleviation, promotion of cultural, educational and aesthetic aspects etc. However, the aspiration of law-makers for empowerment of urban local bodies have not been effectively implemented due to multiplicity of reasons. In this article, the author has made an attempt to understand various issues related to urban governance and reasons for dismal performance of urban local bodies in the process of urban governance.

This article is divided into four parts. Part I of the article comprises of the introduction of the topic and a general discussion on the concepts of urban governance and urban local bodies. Part II of the article deals with inter-relationship between governance in urban India and urban local bodies. In part III, the issues and challenges associated with good urban governance have been discussed at length. The author has analysed the reasons for poor empowerment of urban local bodies despite a clear constitutional mandate. The suggestions, recommendations and conclusions of the discussion have been contained in part IV of this Article.

II. ROLE OF URBAN LOCAL BODIES IN GOOD URBAN GOVERNANCE

For purposes of good governance, it is important to ensure that all the sectors of population are represented, not just the elite or powerful in the civil society⁶. Anil Kumar Vaddiraju in his article ‘Urban Governance and Right to the City’ has championed the right to city⁷ as a moral right for marginalised section of the society. According to him, the concept of right to city is used in the context of practice of urban citizenship, governance and social and political participation⁸. Now, the pertinent question is whether urban administration has been successful in creating such environment wherein the civic amenities are accessible to entire urban population in the same manner. The answer to this question is not in affirmative. In fact, the poor condition of civic infrastructure in cities has been acknowledged in various studies⁹ undertaken by scholars, policy-makers etc. The Central Government through its nodal ministry¹⁰ has framed various schemes/programmes for betterment of civic infrastructure some of which are listed hereunder:

1. Smart cities.
2. Atal Mission for Rejuvenation and Urban Transformation (AMRUT).
3. National Heritage City Development and Augmentation Yojana (HRIDAY).
4. Swachh Bharat Mission - Urban (SBM-U).
5. Urban Transport.
6. Pradhan Mantri Awas Yojana- Housing for All (Urban)
7. Deendayal Antyodaya Yojana (DAY) - National Urban Livelihoods Mission (NULM).
8. Jawaharlal Nehru National Urban Renewal Mission (JNNURM).

Unfortunately, despite so many schemes for better urban infrastructure and facilities, there is not much improvement in the urban governance. What are the primary causes for the failure of implementation of government policies and programmes – excess

⁵ A.K. Jain, *Urban Governance: Challenges and Opportunities*, 15, Shelter, 38, 39-40 (2014).

⁶ A.P. Singh, *Civil Society and Good Governance: Emerging Challenges*, 50, Journal of Indian Law Institute, 81 (2008). The author has also explained in this article that the States also have a role in empowering their citizens by creating capacities in individuals and civil society associations, providing equal opportunities and ensuring social, economic and political inclusion and access to resources.

⁷ According to the author, the concept of the ‘right to city’ was forwarded by the French social scientist Henri Lefebvre in his book ‘Right to the City’ written in 1968.

⁸ The author has explained in his article that that the concept of ‘right to city’ provides us a lens to view urban governance problems from a fresh perspective. It means the right to reclaim public spaces, public participation in the city, and, more importantly, right to housing and basic amenities.

⁹ Chetan Vaidya, *Urban Issues, Reforms and Way Forward in India*, Working Paper No. 4/2009-DEA, Department of Economic Affairs, Ministry of Finance, Government of India, 11 (2009). The author has pointed out that there is a tremendous pressure on civic infrastructure systems like water supply, sewerage and drainage, solid waste management etc.

¹⁰ Ministry of Housing and Urban Affairs, Government of India.

population, poor state of local governance, bureaucratic hurdles, legislative indifference or lack of public participation in policy making and implementation of these schemes? The answers to these questions are not simple but a complex one which require detailed scrutiny and analysis.

In modern India, the institution of the urban local bodies has come into existence more than three hundred years back¹¹. The 74th Constitutional amendment has given a constitutional status to these urban local bodies. However, the decentralization of governance as envisaged in the Constitution is not duly reflected in the functioning of the urban local bodies. The state governments have not been very proactive in ensuring participation of citizens in urban governance. There are issues with constitution of ward committees, allocation of resources to urban local bodies, providing functional autonomy to urban local bodies, creation of sources of finance for urban local bodies and amendment of old municipal laws. At the time, when Indian cities are witnessing a huge influx of rural population in cities for various reasons and when these cities are engines of economic growth, it becomes very crucial to assess whether our cities have capacity, in terms of infrastructure and civic amenities, to cater to the needs of a growing urban population. The role of urban local bodies is confined to catering to some basic needs of urban masses like sanitation, water supply and transportation. Due to populist political agendas, urban local bodies are not getting much autonomy to implement schemes for urban population in its entirety. It has been observed that municipal revenues have limited buoyancy¹².

Since urban local bodies are represented by councillors who are elected by the people, it is assumed that there will be more involvement of public in local administration. However, instead of giving voice to the concerns of the common people, the elected representative to these local bodies use these institutions for fulfilling their political aspirations. Further, the administration of urban local bodies, usually headed by a commissioner level officer, is indifferent to the concerns of public. The participation of urban local bodies in the scheme of framing and implementing urban policies and creation of urban infrastructure is negligible. In fact, it is a common belief that municipal bodies lack competence, resources and will to make cities more habitable. The international development agencies are collaborating with countries like India to make local bodies more functional and responsive to public concerns. France is a very good role model which may be followed by India in ensuring good urban governance. From 1981, the communes, the lowest level of French government, gained substantial autonomy and power in the highly devolved intergovernmental system due to which it was transformed from one of primarily central-local bargaining to a multipolar system in which several categories of actors can legitimately claim an interest¹³.

III. ISSUES AND CHALLENGES IN GOOD URBAN GOVERNANCE AND INVOLVEMENT OF URBAN LOCAL BODIES IN PROCESS OF URBAN GOVERNANCE

The author will first discuss the need for good urban governance and challenges in the process of ensuring good urban governance and decentralization of governance. A good governance will ensure provision of better infrastructure and civic amenities for the urban population. Despite enactment of many statutes and introduction of government policies and programmes, there is a growing concern with respect to current status of housing, water supply, drainage, sewerage, solid waste management, quality of air, health and education facilities etc. Non-implementation of decentralization of governance in letter and spirit has resulted in unplanned and chaotic urban development and poor urban governance.

The lack of co-ordinations amongst various agencies involved in urban governance makes the process of urban governance a difficult proposition as there are no synchronized efforts for implementation of urban plans. Non-state actors, like civil society including NGOs, academicians and other stakeholders, are not being consulted on a regular basis while framing policies and executing such policies, which is against the true spirit of urban governance. The existing legal provisions (statutes¹⁴, rules and regulations, policies etc.) are not comprehensive and adequate enough to support the urban local bodies in discharging their functions. There is no clear-cut demarcation of roles, responsibilities and authority amongst local governments and state and national governments and urban local bodies are lacking functional and financial autonomy.

¹¹ Shilendra Kumar Sharma, *Role of Municipal Corporation in Education and 74th Amendment*, (Nov. 21, 2017, 11.30AM) <http://www.prathamdelhi.org/pdf/Role%20of%20Municipal%20Corporations%20and%2074th%20Amendment.pdf>.

¹² Chetan Vaidya, *Urban Issues, Reforms and Way Forward in India*, Working Paper No. 4/2009-DEA, Department of Economic Affairs, Ministry of Finance, Government of India, 19 (2009).

¹³ Alan Digaetano and Elizabeth Storm, *Comparative Urban Governance: An Integrated Approach*, *Urban Affairs Review*, 381-382 (2003).

¹⁴ The laws dealing with urban governance can be broadly classified into various sub-categories such as (i) municipal laws, (ii) urban development laws, (iii) environmental laws and (iv) other specific statutes dealing with any aspect of urban administration, management and development.

The lack of good urban governance is a worldwide problem and it has become very significant in light of the growing reliance on urban spaces by a large number of population of any country. According to UN Habitat, good urban governance is characterised by the following interdependent and mutually reinforcing norms¹⁵:

1. Sustainability in all dimensions of urban development.
2. Subsidiary of authority and resources.
3. Equity of access to decision making processes and the basic necessities of urban life.
4. Efficiency in the delivery of public services and in promoting local economic development.
5. Transparency and accountability of decision-makers and all stakeholders.
6. Civic engagement and citizenship.
7. Security of individuals and their living environment.

The reasons for a substantial deficiency of these characteristics in the urban governance structure of India may be explicit, implied or unexplained. The lack of decentralization of power and participation of civil society may be considered as the main reasons for poor urban governance. The government machinery at central and state level has not been very active in promotion of cause of urban local bodies. The financial dependence of urban local bodies seriously undermines their role in implementation of urban policies.

There is multi-level critical urban infrastructure which needs urgent attention by the law-makers, urban local bodies and non-state actors in order to maintain the sustainability of urban areas. There is also a need for prioritization of objectives by the urban local bodies and they should maintain a better co-ordination with the other organs of the state engaged in implementation of urban development schemes and in providing civic amenities.

It emerges from the study of prevailing trends that the extant legal framework is neither comprehensive nor adequate in addressing issues arising due to complexity of urban governance¹⁶. Accessibility of urban services by the masses, lack of transparency in urban governance and non-enthusiasm in vesting of powers and authorities in favour of urban local bodies have enhanced the problem of urban governance manifold. Scarcity of land within the central part of cities and other prime locations and lack of capital for creation of civic infrastructure are also core problems for poor urban governance.¹⁷ Multiplicity of administrative organization in urban region provides opportunity for friction in programme and project formulation as well as in their execution¹⁸.

Another reason for poor urban governance is lack of public participation in urban local government. Lack of homogeneity in the population of the cities, lack of attachment with the city government, lack of able leadership and its poor image, bureaucratic attitude to people, absence of continuous contact of the councillors with the public, rampant corruption, inefficiency of municipal administration, deficiency in structures of local government are some of the reasons attributable to poor public participation in urban local government¹⁹.

¹⁵ A.K. Jain, *Urban Governance: Challenges and Opportunities*, 15, Shelter, 40 (2014).

¹⁶ The Preparatory Committee for the United Nations Conference on Housing and Sustainable Urban Development (UN Committee), in its policy paper 4: Urban governance, capacity and institutional development, have pointed out the challenges for urban governance in the following words:

“Due to the increasing complexity of our societies, urban governance is increasingly shaped by multilevel systems and multi-stakeholder interactions. Current urbanization trends and urban changes are influencing development dynamics on a global scale, posing unprecedented challenges for urban governance. An acknowledgement of the increasing complexity of urban systems has led to the recognition that urban governance needs to adopt a more integrated approach in order to respond to current and future challenges. A new concept of urban governance has to grasp the issue of integrating different levels of government and a wide range of participating actors — formally or informally — in policy formulation and implementation. Any general agenda for reforming urban governance also needs to acknowledge the challenges associated with the diversity of local conditions and new urban forms, taking both the opportunities that urbanization offers and its adverse effects into consideration. The coexistence of metropolitan areas, intermediary cities, small towns, rapidly growing cities and shrinking cities calls for a differentiated policy approach. Even though national definitions of threshold size vary widely, urban policy (at the national level) is confronted with the challenging task of having to adapt policies to specific urban characteristics, while reducing inequalities between different urban areas and regions (different in terms of poverty, demographic issues, infrastructure, etc.).”

¹⁷ Amitabh Kundu, *Urbanisation and Urban Governance – Search for a Perspective Beyond Neo-Liberalism*, Economic and Political Weekly, 3085 (2003).

¹⁸ Abhilash Likhi, *Issues in Urban Planning and Administration*, 44, The Administrator, 94 (2001).

¹⁹ Harsharan Kaur, *Public's Participation in Urban Local Government*, Punjab University Law Journal, 305-307 (2007). In her article, the author has also recommended various measures for increasing public participation in urban local government such as constant contact of the councillors with the people, change in the attitude of the bureaucracy, creation of consciousness of citizens' rights and responsibilities, healthy role of political parties and competent leadership.

The classic case of neglect of urban local bodies may be witnessed in union territory of Delhi. On the one hand, there are various municipal corporations and on the other, there are central and state government authorities like Delhi Development Authority, Delhi State Pollution Control Board, Delhi Jal Board etc. taking care of various aspects related to urban governance. In case of crisis (like recent case of severe air pollution), all the agencies start blaming each other. Municipal corporations in Delhi are discharging a very insignificant extent of functions envisaged for urban local bodies under Schedule 12 of the Constitution.

IV. CONCLUSIONS

From the holistic analysis of the current state of affairs in India, we find that governance, in general and urban governance, in particular, have not received the desired attention they deserve. There is an urgent need to delegate powers to the municipal bodies to perform the functions as mandated in the Constitution. The matters related to urban planning, planning for economic and social development, urban forestry, protection of the environment and promotion of ecological aspects, slum improvement and upgradation, urban poverty alleviation and promotion of cultural, educational and aesthetic aspects are some of the agenda items which can be implemented more effectively by the urban local bodies with the help of local population. The magnitude of the urban problems like high disparity in levels of income, degrading environment and mushrooming of slums are compelling the participants, performers and consumers of urban governance to deliberate as to how to make the city space more liveable, accommodative as well as sustainable. There is no straight jacket formula to bring a permanent solution to this issue considering the consistent rise in urban population, poor policy formulations, bureaucratic apathy and neglect of human values in quest for political power. There are two main aspects which needs attention of the law-makers and policy formulators for a better urban governance – decentralization of powers in favour of urban local bodies and empowerment of these institution by giving them financial autonomy. The author would like to offer some suggestions and recommendations to improve the process of urban governance which are listed hereunder:

1. Suitable legislations should be enacted to empower municipal bodies. By way of gradual and systematic process, the central and state agencies managing urban affairs should hand over these functions to the urban local bodies. A municipal body with in-depth understanding of urban issues can work better in town planning and determination of land use for different pockets of the city. The issue of haphazard urban development can also be well addressed by the local bodies with the help of general public, business community and civil society.
2. There should be timely elections for the urban local bodies. Public awareness campaigns about the importance of these local bodies should be organised so that people at large are encouraged to vote and elect representative in urban local bodies. There should be structural improvements in the functioning of wards and councillors. There should be enhanced level of accountability with respect to the manner in which these councillors discharge their duties in urban administration.
3. A longer time horizon should be estimated while formulating policies related to creation of civic and urban infrastructure as it should be able to meet out needs of a larger urban population and issues arising out use of these infrastructural facilities in a longer run. A clear-cut road map should be drawn to detail out the way in which urban local bodies can take over the bigger responsibilities of environmental protection, poverty alleviation and slum rehabilitation etc.
4. There should be dedicated funds and grants to be allocated to the urban local bodies and state governments must ensure that there is timely enhancement of grants to these local bodies so that they may effectively discharge their duties. New innovative ways like issue of bonds ²⁰ and providing chargeable services to citizens may help municipal bodies in improving their financial capacity.
5. There is a need for image make-over of the urban local bodies. The transformation from a corrupt, inert and unresponsive institution into a vigilant, sensitive and efficient one will not be sudden but it is inevitable otherwise people will never consider municipal institutions as organs of good urban governance. It is needless to say that without public participation in the governance, the objective of good urban governance cannot be ever achieved.
6. There should be less informal mechanism for connecting local population with urban local bodies. The elected representatives and bureaucratic machinery dealing with urban administration should be accessible to general public. The online delivery of information and services, online tracking of progress of service requests as well as urban schemes, proper publication of books of account detailing income and expenditure will pave the way for creation of trust and a transparent system.
7. The other two organs of governance i.e. centre and state should play role of facilitator and enabler in creation of civic and urban infrastructure. They should proactively act to remove glitches arising out of lack of co-ordination amongst various state actors engaged in urban administration. Strengthening local governance will also improve efficiency of central and state governments in discharging their duties as there will be less issues for governance.
8. Till now, the focus of urban governance has been confined to capital cities and big metropolitan cities. In a vast country like India, in terms of area and population, the structural reforms should be carried at micro level also. Once all municipal bodies

²⁰ Several municipal corporations like Ahmedabad Municipal Corporation and Pune Municipal Corporation have already issued bonds for raising finance. In fact, for implementation of new urban schemes, the Central Government is encouraging issue of municipal bonds.

are equally equipped and resourceful in carrying out urban administration, the dream of good urban governance with active participation of public can be truly realized.

9. A system of monitoring and audit of urban projects should be developed with due participation of civil society. The public officials discharging functions of urban administration should not shy away from responding to the queries related to building up or operation and management of urban infrastructure. There should be a sense of ownership amongst citizens with respect to civic and urban facilities and a duty to care about these facilities should also be inculcated in users by institutions like schools, colleges, universities, government and private offices.
10. The courts should also be vigilant in ensuring that there is no encroachment in the space of local governance by the two upper tiers of the government. Indian judiciary in last few decades have proactively protected the interests of public at large by upholding the constitutional principles. We may expect similar type of enthusiasm and pro-people approach to be adopted by the apex court and high-courts in protection and growth of urban local bodies. The 74th constitutional amendment giving municipal bodies a constitution status can be implemented in letter and spirit only with the active engagement of higher judiciary.

Though there are challenges in effective implementation of good urban governance in India but a committed judiciary and sincere parliamentary and bureaucratic system and informed citizens have the capability and potential to change the landscape of urban governance in this country. The enhanced financial and political autonomy to urban local bodies and creation of urban infrastructure with a long-term horizon will ensure better governance in urban India. The surrounding issues like better law and order situation and more productivity and employment opportunities in rural India will also help in improving urban administration. The systematic fight against corruption, governments efforts to get better ranking in 'ease of doing business' index, healthy competition amongst states for a better position in national ranking of states for doing business and attracting foreign investment will certainly boost the cause of good urban governance.

