

Democracy to the People – An Unfulfilled Quest

The Case of 74th Constitutional Amendment Act

Prepared by

Krishnakant Chauhan

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About this publication:

This publication, supported by the Homes in the City programme, presents the implementation of the 74th Constitutional Amendment Act (CAA) and adoptions undertaken by various states, experiments by non-governmental organizations (NGOs), citizens groups to assert their participation in the light of 74th CAA, and attempts to chart a way forward.

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Contact details:

Homes in the City (HIC),
16, “Yogeswar” Opposite -Gymkhana,
Ghanshyam Nagar
Bhuj, Gujarat 370001.

Preface

India declared herself as a constitutional democracy, and adopted the Constitution on 26th January, 1950. The Preamble of the Indian Constitution states, “*We, the People of India..... do hereby give ourselves this Constitution*”.

Thus, the Indian Constitution places the citizens of India as the core of the country. However, it took about 45 years and 72 constitutional amendments before the 73rd (Panchayat) and 74th (Municipalities) Constitutional Amendment Acts (CAA) were passed to ensure citizens participation in decision-making and decentralizing several functions of the panchayats and urban local bodies (ULBs).

This year, in 2022, India is celebrating the 75th year of its Independence, wherein we are rejoicing that we declared ourselves a democratic republic. Hence underlining the importance of being an Indian citizen and creating space for citizens participation is as relevant in this 75th year as it was ever.

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Krishnakant Chauhan

Background

India declared itself a democratic republic, asserting that the citizens of the country would be supreme. It was only in 1993 that the 73rd and 74th Constitutional Amendments were adopted to ensure citizens' participation at the local bodies level, adding another tier to the governance structure of the country. The 74th CAA inserted in Part IX-A of the Constitution and the addition of Twelfth Schedule has far reaching impacts on the urban governance structure.

India is predominantly considered a rural nation. However, the pace of urbanization in the country has seen a rapid growth. Demographic estimates by various agencies cite that presently about half of the country resides in urban centres. The central government has long been pursuing policies encouraging and facilitating urbanization.

With favorable policies in place, India's towns and cities have emerged as centres of economic activities, thereby providing employment and livelihood opportunities to millions. Access to quality education and health facilities as well as improved public infrastructure has ensured steady flow of migrants to the cities.

This necessitates the strengthening of its urban governance model that ensures citizen participation and decentralization of functional power to the ULBs. The implementation of the 74th CAA leading to various reforms gathered pace only after it was made mandatory under the Jawaharlal Nehru National Urban Renewal Mission (JNNURM) in 2005. However, the later policies have not pressed on these reforms. There is a long way to go before Indian citizens can actually start taking an active role in decision-making as has been the case with the panchayats in rural India.

India has to transition itself from a representative democracy to a participatory democracy. This can be achieved by legal provisions as well as greater awareness and participation of the citizens of the country.

The State list in the Twelfth Schedule of the Constitution of India enumerates, "*local authorities for the purpose of local self-government or village administration*". With municipal administration being a state subject, the enactments towards implementation of the 74th CAA at local level are not synchronous. While Gujarat is a progressive state in terms of its industrial atmosphere and civic infrastructure, however, the enactments towards implementation of the 74th CAA leave much to be desired. In this background, we look at the adoptions undertaken by various states, experiments by non-governmental organizations (NGOs), citizens groups to assert their participation in the light of 74th CAA, and attempts to chart a way forward.

Abbreviations

BMC	Brihanmumbai Mahanagar Palika
CBO	Community-based Organization
CEO	Chief Executive Officer
CPL	Community Participation Laws
DPC	District Planning Committee
GoI	Government of India
HIC	Homes in the City
IIM	Indian Institute of Management
JCCD	Janaagraha Centre for Citizenship and Democracy
JNNURM	Jawaharlal Nehru National Urban Renewal Mission
JPC	Joint Parliamentary Committee
SDG	Sustainable Development Goals
MNRB	Model Nagar Raj Bill
MPC	Metropolitan Planning Committee
NRBSM	Nagar Raj Bill Samarthan Manch
NGO	Non-governmental Organization
PRI	Panchayati Raj Institution
RWA	Resident Welfare Association
SC	Schedule Caste
MDG	Millennium Development Goals
SEC	State Election Commission
SFC	State Finance Commission
ST	Schedule Tribe
UGI	Urban Governance Index
ULB	Urban Local Body
URC	Urban Research Centre
74 th CAA	74 th Constitutional Amendment Act

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Chapter 1

The Context of 74th Constitution Amendment Act

At the time of the British colonial rule, several Municipal and Municipal Corporation Acts were enacted in various states of India to ensure smooth governance in the urban areas. After India achieved its Independence on 15th August 1947, various states were reconstituted. But the local bodies were neglected with no elections of local bodies for years together, thereby ensuring that the State governments controlled all administrative and functional powers. However, with increasing urbanisation trends, a strong need to reform the structure of governance at the urban-level was observed. Several commissions like the Ashok Mehta Committee on *Panchayati Raj* Institutions (1978), the Sarkaria Commission on Centre–State Relations (1988) and the Charles Correa Commission Report–The National Commission on Urbanisation (1988) emphasized this need. The National Commission on Urbanisation—appointed in 1985 under the chairmanship of Charles Correa—submitted its report in August 1988 which was instrumental behind the idea of promulgation of the 74th CAA affecting the governance structure of ULBs.

It is therefore important to peek into the background of the 74th CAA, the statement of objects and reasons for any enactment which provide a glimpse of rationale behind the same.

Statement of Objects and Reasons

Statement of objects and reasons appended to the Constitution (73rd Amendment) Bill, 1991 which was enacted as the Constitution (74th Amendment) Act, 1992 reads as,

“In many States local bodies have become weak and ineffective on account of a variety of reasons, including the failure to hold regular elections, prolonged supersession and inadequate devolution of powers and functions. As a result, Urban Local Bodies are not able to perform effectively as vibrant democratic units of self-government.

Having regard to these inadequacies, it is considered necessary that provisions relating to Urban Local Bodies are incorporated in the Constitution particularly for:

(i) putting on a firmer footing the relationship between the State Government and the Urban Local Bodies with respect to:

(a) the functions and taxation powers; and

(b) arrangements for revenue sharing;

(ii) ensuring regular conduct of elections;

(iii) ensuring timely elections in the case of supersession; and

(iv) providing adequate representation for the weaker sections like Scheduled Castes, Scheduled Tribes and women.....”

The main provisions introduced by the above Act are as under¹:-

- I. **Constitution of Municipalities:** It provides for constitution of three types of Municipalities depending upon their size and area, namely, (i) *Nagar Panchayat* for an area in transition from rural to urban; (ii) Municipal Council for smaller urban area; and (iii) Municipal Corporation for larger urban area. Demographic and other conditions, which are the determining factors for constituting a particular type of Municipality, differ a great deal from one state to another. Therefore, it is the discretion of the State Legislatures to decide which specific type of Municipality will be constituted for a particular urban area.
- II. **Composition of Municipalities:** The seats of the Municipalities shall be filled by direct elections. Besides the seats filled by direct elections, some seats may be filled by nomination of persons having special knowledge and experience of/in municipal administration. However, the nominated persons shall not have the right to vote in the Municipality meetings. The Legislature of a State may, by law, shall also provide for the representation in a municipality of members of the House of the People, the members of the Legislative Assembly of the State representing constituencies which comprise wholly or partly the Municipal area as well as the members of the Council of States and the members of the Legislative Council of the State registered as electors within the Municipal area. The manner of election of chairpersons of Municipalities has been left to be specified by the State Legislature.
- III. **Constitution of Wards Committees:** This provides for constitution of Ward Committees in all Municipalities with a population of 3 lakhs or more.
- IV. **Reservation of Seats:** In order to provide for adequate representation of scheduled caste/scheduled tribe (SC/ST) and women in the municipal bodies, provisions have been made for reservation of seats for the same. The proportion of seats to be reserved for SC/ST to the total number of seats shall be same as the proportion of the population of SC/ST in the Municipal area. The reservation would be made in respect of seats to be filled by direct elections only. Not less than one-third of the total number of seats reserved for SC/ST shall be reserved for women belonging to SC/ST. This is a mandatory provision. With respect to women, the seats shall be reserved to the extent of not less than one-third of the total number of seats. This includes seats reserved for women belonging to SC/ST. These reservations will apply for direct elections only. This is also a mandatory provision. There will be no bar on State Legislatures from making provisions for reservation of seats in any Municipality or office of chairperson in the Municipalities in favour of backward class of citizens. This is an optional provision.
- V. **Duration of Municipalities:** The Municipality has a fixed term of five years from the date appointed for its first meeting. Elections to constitute a Municipality are required to be completed before the expiration of duration of the Municipality. If the

¹ <https://mohua.gov.in>

Municipality is dissolved before the expiry of five years, the elections for constituting a new Municipality are required to be completed within a period of six months from the date of its dissolution.

- VI. **Powers and Functions of the Municipalities:** All Municipalities would be empowered with such powers and responsibilities as may be necessary to enable them to function as effective institutions of self-government. The State Legislature may, by law, specify what powers and responsibilities will be given to the Municipalities in respect of preparation of plans for economic development, social justice and implementation of schemes as may be entrusted to them. An illustrative list of functions that may be entrusted to the Municipalities has been incorporated as the Twelfth Schedule of the Constitution.
- VII. **Finances of Municipalities:** It has been left to the discretion of the Legislature of a State to specify by law matters relating to imposition of taxes. Such law may specify:
- Taxes, duties, fees, etc., which can be levied and collected by the Municipalities, as per the procedure to be laid down in the State law;
 - Taxes, duties, fees, etc., which will be levied and collected by the State Government and a share passed on to the Municipalities;
 - Grant-in-aid that will be given to the Municipalities from the State;
 - Constitution of funds for crediting and withdrawal of money by the Municipality.
- VIII. **Finance Commission:** Constituted under the Article 243-I to review the financial positions of *Panchayati Raj* Institutions (PRIs), the Finance Commission shall also review the financial position of the Municipalities and make recommendations to the Governor. The recommendations of the Finance Commission will cover the following:
- Distribution between the State Government and Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State;
 - Allocation of share of such proceeds between the Municipalities at all levels in the State;
 - Determination of taxes, duties, tolls and fees to be assigned or appropriated by the Municipalities;
 - Grants-in-aid to Municipalities from the Consolidated Fund of the State.
 - Measures needed to improve the financial position of the Municipalities.
- IX. **Elections of Municipalities:** The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to the *Panchayats* and Municipalities shall be vested with the State Election Commissions (SECs).
- X. **Audits and Accounts:** The maintenance of the accounts of the Municipalities and other audits shall be done in accordance with the provisions of the State law. The State Legislatures will be free to make appropriate provisions in this regard depending upon the local needs and institutional framework available for this purpose.

XI. **Committee for District Planning:** Planning and allocation of resources at the district-level for the PRIs are normally to be done by the *Zilla Parishad*². With regard to urban areas, the Municipal bodies discharge these functions within their respective jurisdictions. However, some important questions may arise, which would concern the urban-rural interface, and it may be necessary to take an overall view with regard to development of the district as a whole and decide on allocation of investments between the rural and urban institutions. Provision has, therefore, been made for the constitution of a Planning Committee at the district-level with a view to consolidating the plans prepared by the *Panchayats* and the Municipalities and preparing a development plan for the district as a whole. The District Planning Committee (DPC) in preparing the Draft Development Plan shall have regard to:

- Matter of common interest between the *Panchayats* and the Municipalities including spatial planning;
- Sharing of water, other physical and natural resources;
- Integrated development of infrastructure and environment conservation;
- Extent and type of available resources, whether financial or otherwise.

The Draft District Development Plan so prepared and recommended by the DPC shall be forwarded by the chairperson of the Committee to the State Government.

X. **Committee for Metropolitan Area Planning:** It is provided in the Act that in every Metropolitan area (with a population of 10 lakhs or more), a Metropolitan Planning Committee (MPC) shall be constituted for preparing a draft development plan for the Metropolitan area as a whole. The MPC shall take into account the following for preparation of the Draft Development Plan:

- Plans prepared by the Municipalities and the *Panchayats* in the Metropolitan area;
- Matter of common interest between the Municipalities and the *Panchayats*, including coordinated spatial plans of the area;
- Sharing of water, other physical and natural resources;
- Integrated development of infrastructure and environmental conservation;
- Overall objectives and priorities set by the Government of India (GoI) and the State Government;
- Extent and nature of investments likely to be made in the Metropolitan area by agencies of the State Government;
- Other available resources, financial and otherwise.

The amendments can be clubbed into three major heads, namely, (i) Funds; (ii) Functions; and (iii) Functionaries regarding the ULBs for effective devolution of powers to the Municipalities and Municipal Corporations, also known as Institutes of Local Self-Governance.

² It is a local self-government unit at district level. The *Zilla Parishad* is a link between the State government and the *Gram Panchayats*. It is also known by different names in different States, like District Development Council, *Zilla Parishad* and *Mohkuma Parishad*.

Provision of Funds for Effective Discharge of the Municipal Functions

For this purpose, the Article 243X and Article 243Y provide for sources of funds:

“243X. Power to impose taxes by, and Funds of, the Municipalities.—
The Legislature of a State may, by law,—

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

243Y. Finance Commission.—(1) *The Finance Commission constituted under article 243-I shall also review the financial position of the Municipalities and make recommendations to the Governor as to—*

- (a) the principles which should govern—*
 - (i) the distribution between the State and the Municipalities of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Municipalities at all levels of their respective shares of such proceeds;*
 - (ii) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Municipalities;*
 - (iii) the grants-in-aid to the Municipalities from the Consolidated Fund of the State;*
- (b) the measures needed to improve the financial position of the Municipalities;*
- (c) any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Municipalities.*

(2) The Governor shall cause every recommendation made by the Commission under this article together with an explanatory memorandum as to the action taken thereon to be laid before the Legislature of the State.”

Functions: Powers of the Municipality

The Article 243W provide for powers of the Municipality as under:

“243W. Powers, authority and responsibilities of Municipalities, etc. — Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow—

(a) the Municipalities with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Municipalities, subject to such conditions as may be specified therein, with respect to—

(i) the preparation of plans for economic development and social justice;

(ii) the performance of functions and the implementation of schemes as may be entrusted to them including those in relation to the matters listed in the Twelfth Schedule;

(b) the Committees with such powers and authority as may be necessary to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Twelfth Schedule.”

Planning Functions of the Municipality

To this effect, following two provisions have been made: (i) Article 243ZD for the constitution of the DPC and the Article 243ZE for the constitution of the MPC. For example, in Gujarat, the State Government passed a resolution and an act to this effect in 2008-09: the Gujarat District Planning Committees Act 2008 received the Governor’s assent on 29th March 2008 and Gujarat Metropolitan Committees Act, 2008 was assented by governor on 30th September, 2008. However, the elections for constitution of the MPC and the DPC were undertaken only after a litigation in the Gujarat High Court (MCA 3244/2015 in WPPIL 75/2014 *Gujarat Khedut Hit Rakshak Samiti Vs. State of Gujarat*, order dated 08-02-2016) wherein the Gujarat High Court ordered to conduct elections for the said committees.

“243ZD. Committee for district planning.—(1) There shall be constituted in every State at the district level a District Planning

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

(2) The Legislature of a State may, by law, make provision with respect to—

(a) the composition of the District Planning Committees;

(b) the manner in which the seats in such Committees shall be filled:

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

(c) the functions relating to district planning which may be assigned to such Committees;

(d) the manner in which the Chairpersons of such Committees shall be chosen.

(3) Every District Planning Committee shall, in preparing the draft development plan,—

(a) have regard to—

(i) matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(ii) the extent and type of available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Governor may, by order, specify.

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

243ZE. Committee for Metropolitan planning.—*(1) There shall be constituted in every Metropolitan area a Metropolitan Planning*

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

(2) The Legislature of a State may, by law, make provision with respect to—

(a) the composition of the Metropolitan Planning Committees;

(b) the manner in which the seats in such Committees shall be filled:

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

(c) the representation in such Committees of the Government of India and the Government of the State and of such organisations and Institutions as may be deemed necessary for carrying out the functions assigned to such Committees;

(d) the functions relating to planning and coordination for the Metropolitan area which may be assigned to such Committees;

(e) the manner in which the Chairpersons of such Committees shall be chosen.

(3) Every Metropolitan Planning Committee shall, in preparing the draft development plan,—

(a) have regard to—

(i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area;

(ii) matters of common interest between the Municipalities and the Panchayats, including coordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(iii) the overall objectives and priorities set by the Government of India and the Government of the State;

(iv) the extent and nature of investments likely to be made in the Metropolitan area by agencies of the Government of India and

of the Government of the State and other available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Governor may, by order, specify.

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

Functionaries: Councillors and Ward Committees

To ensure citizen participation, the amendments provided for the constitution and composition of the Ward Committees:

“243S. Constitution and composition of Ward Committees, etc.—(1) There shall be constituted Ward Committees, consisting of one or more wards, within the territorial area of a Municipality having a population of three lakhs or more.

(2) The Legislature of a State may, by law, make provision with respect to—

(a) the composition and the territorial area of a Ward Committee

(b) the manner in which the seats in a Ward Committee shall be filled.

(3) A member of a Municipality representing a ward within the territorial area of the Ward Committee shall be a member of that Committee.

(4) Where a Ward Committee consists of—

(a) one ward, the member representing that ward in the Municipality; or

(b) two or more wards, one of the members representing such wards in the Municipality elected by the members of the Ward Committee, shall be the Chairperson of that Committee.

(5) Nothing in this article shall be deemed to prevent the Legislature of a State from making any provision for the constitution of Committees in addition to the Ward Committees.”

However, the amendments kept it at the discretion of the states to apply the forming of Ward Committee for Municipalities having the population threshold of below 3 lakhs. While many states have passed laws relating to formation of the Ward Committee for all Municipality areas,

irrespective of population size, the state of Gujarat has passed a resolution only, rather than an enactment to this effect, thereby limiting the formation of Ward Committee in the Municipal Corporations only. Thus, leaving the rest of the urban municipal areas devoid of any policy or mechanism for participatory governance.

Reserving Seats to Ensure Participation of SCs, STs and Women in Municipality

“243T. Reservation of seats.—(1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the Municipal area or of the Scheduled Tribes in the Municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Municipality.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.

(4) The offices of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

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

This article aims to ensure participation of SCs, STs and women in the elected municipal body. In most of the Municipalities in the country, there is one representative for each ward, but in Gujarat, each ward is represented by four councillors. In each ward, there are two women councillors, wherein 50% representation of women is accounted. For the remaining seats, seats for SCs/STs are reserved proportionate to their population on rotation basis as notified by the SEC from time to time.

Chapter 2

Public Participation through 74th Constitution Amendment Act: Comparative Assessment of Formation of Ward Sabha and Area Sabha in Indian States

Under the mandatory reforms for availing the benefits of JNNURM scheme, various states perused reforms at various levels. One of the foremost conditions to ensure active participation of citizens was the constitution of Ward Sabha and Area Sabha. The Ward Sabha was envisaged to incorporate citizens of a particular ward in a committee which will be chaired by the elected councillor of the ward. It was mandated to assist the ward councillor towards effective implementation of the various functions devolved under the Twelfth Schedule of the Constitution of India through the 74th CAA.

As the local government including the Municipalities and Municipal Corporations fall under the State List, the States were to make any law for the same. Hence the JNNURM reforms mandated enactments related to public participation laws in the States. Each State in its wisdom enacted the provisions relating to the public participation in urban governance in the form of ward sabha and area sabha.

States have adopted and enacted community participation laws in a varied manner as can be seen below:

Andhra Pradesh

The Greater Hyderabad Municipal Corporation Act, 1955.

Ward Sabha	Area Sabha
I. Not more than 10 representatives nominated as prescribed	I. Not less than 2,000 and not more than 5,000
II. Half of the persons nominated to be women	II. Area Sabha Representative for each area to be nominated by the Municipal Corporation from the representatives of the civil society as may be prescribed.
III. The term of office of Ward Committee shall be coterminous with the term of office of the Municipal Corporation.	III. The term of the representative of the Area Sabha shall be ordinarily co-terminus with that of the Municipal Corporation concerned.

Assam

The Assam Nagara Raj Act, 2007

Ward Sabha	Area Sabha
I. Each Ward Committee shall consist of the Area Sabha Representative of any Area shall be a member of the Ward Committee constituted for the ward within which that Area is situated. The member of the Corporation or Municipality representing the Ward, and not more than 10 persons representing the civil society from the ward, nominated by the Corporation or Municipality.	I. All persons mentioned in the electoral roll of any polling booth in such territory, or, if the Government so decides, two or more contiguous polling booths (not exceeding five such polling booths) in such territory, are ordinarily resident.
II. The term of office of the Ward Committee shall be coterminous with the term of office of the Corporation or Municipality.	II. Any registered voter in an Area may file his/her nomination for contesting the elections to office of Area Sabha Representative within a period of four weeks from the date of announcement of results of the elections to the Corporation or Municipality.
III. The Ward Committee shall meet at least once a month. It shall be the duty of the chairperson of the Ward Committee to convene Ward Committee meetings at least annually for consultation, on the following subjects: (a) Preparation of Ward Plan; (b) Preparation of Ward Budget; (c) Preparation of Ward Maps, ward infrastructure index and other alternate functions.	III. The election to the office of Area Sabha Representative in the various Areas within the Corporation or Municipality shall be conducted under the aegis of the SEC or an Agency that may be appointed in its place by the State Government, within a period of four weeks from the last date for filing of nominations for the post of Area Sabha representative.
	IV. No person shall be eligible to continue to hold office as Area Sabha representative, if at any time, six months after his/her election to such post s/he is recalled by a written representation to the Ward Councillor or the Corporation or Municipality, as the case may be, supported by not less than one half of the total members of the Area Sabha concerned.

Bihar

The Bihar Municipal Act, 2007

The Bihar Urban Local Body (Community Participation) Rules, 2013

Ward Sabha	Area Sabha
I. The Ward Committee may include not more than 10 persons representing the civil society from the ward, nominated by the Municipality.	I. The State Government shall by order, determine that Municipalities with 1,50,000 and above shall have Area Sabha in each ward.
II. There shall be a Ward Committee for each ward in a Municipality. Each Ward Committee shall consist of the Councillor elected from a ward of the Municipality and all elected representatives of the Area Sabhas falling under that ward, where such Area Sabhas are constituted.	II. Area Sabha representative shall be elected from every area with as nearly as possible but not exceeding 50% of the total number of Area Sabha representatives shall be reserved for women by rotation as prescribed by the SEC.
III. The term of office of Ward Committee shall be coterminous with the term of office of the Municipal Corporation.	III. The term of the representative of the Area Sabha shall be ordinarily co-terminus with that of the Municipality concerned.
	IV. An Area Sabha representative may be recalled in the manner prescribed for the recall of Council under the Section 17 of the Bihar Municipal Act 2007.

Haryana

The Haryana Municipal Citizens' Participation Act, 2008

Ward Sabha	Area Sabha
I. There shall be a Ward Committee for each ward in a Municipality to be constituted within six months of the constitution of the Municipality.	I. The territorial extent of area of each Area Sabha shall be coterminous with the geographical area of the ward of the Municipality. However, in a Municipality, where population of a ward is more than 10,000; the ward shall be sub-divided into a number of areas with a population of 10,000 or a part thereof (less than 50% being ignored and more than 50% of the same being counted as one unit).
II. Each Ward Committee shall consist of the member of the Municipality representing the ward. Not less than three and not more than 10 persons representing the civic society as Area Sabha representatives from the ward, to be nominated by the Municipality.	II. The Area Sabha representative nominated in the manner as provided under the Section 6 of this Act, shall be a member of the Ward Committee.

III. At least one-third of the members shall be women and the number of members representing SC and Backward Class shall be in proportion to their population in that ward.	III. The general body meeting of an Area Sabha shall be held in the area, at a public place, at least twice a year. At least 10 % of the registered voters of the area shall be present in such meetings.
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Karnataka

The Karnataka Municipal Corporations (Amendment) Act, 2011

Ward Sabha	Area Sabha
I. The Ward Committee shall consist of the Councillor of the Corporation representing the ward and 10 other members to be nominated by the Corporation; out of which, at least two members belonging to the SCs and the STs; at least three women members; and at least two members representing Residents Associations.	I. Each area shall comprise the polling area of one or more contiguous polling stations in a ward, but in any case, not exceeding total area of five such polling stations.
II. The term of the nominated members shall be co-terminus with the term of the office of the Corporation.	II. All persons who are registered as voters in the electoral rolls of the polling stations in an area shall be members of that Area Sabha.
III. The Corporation may in addition to the allotment of funds to various projects in the budget, also allot not less than the prescribed amount towards ward development scheme to each ward which shall be utilised by the Ward Committee in the manner as may be prescribed	III. Each area shall have an Area Sabha representative who shall be nominated by the Corporation on the recommendation of the Councillor of the particular ward.
IV. The Ward Committee shall meet at least once in a month.	IV. If Councillor of any ward, for any reason ceases to be the Councillor before the expiry of the term of the Corporation, the Area Sabha representatives of that ward shall also cease to be Area Sabha representatives and new Area Sabha representatives shall be nominated in accordance with the sub-section (1)

Kerala

The Kerala Municipality Act, 1994

Ward Sabha	Area Sabha
I. In every Municipality where the population exceeds one lakh, there shall be constituted a Ward Committee for each ward of that Municipality as provided in the Section 43, within three months from the date of its constitution.	I. In every Municipality where the population does not exceed one lakh, there shall be a Ward Sabha for each of its Ward and all persons included in the electoral roll of that ward shall be members of that Ward Sabha.
II. The Ward Committee shall consist of (a) the Councillor of that ward, (b) 15 persons to be elected in the manner prescribed, from among the members of the resident's association of that Ward, which are registered in the Municipality, (c) 20 members to be elected in the manner prescribed from among the members of the registered neighbourhood groups of that Ward which are registered in the Municipality; (d) one person each nominated by every political party having representation in the Municipality; (e) the heads of all recognised educational institutions functioning in that Ward; (f) 20 persons nominated jointly by the Chairperson and Councillor of the Ward.	II. The Ward Sabha shall meet at least once in three months at a specified place.
III. The Ward Committee shall meet at least once in three months for discharging the duties and performing the functions as may be assigned to it by the Council, from time to time.	III. The convenor of the Ward Sabha shall convene an extraordinary meeting of the Ward Sabha within 15 days when a request is made in writing by not less than 10% of the electors in the ward for discussing the matters raised in the request.

Madhya Pradesh

Madhya Pradesh Municipal Corporation Act, 1956

The M.P. Municipal Corporation (Duties and Powers and Procedure of Conduct of Business of Wards Committees) Rules, 1995

Madhya Pradesh Municipalities Mohalla Committee (Constitution, Functions and Conduct of Business) Rules, 2011

Ward Sabha	Area Sabha
<p>I. There shall be constituted Wards Committees within the territorial area of a Municipal Corporation having a population of three lakhs or more. The Wards Committee shall be constituted within 30 days from the date of election of Speaker under the sub-section (1) of the Section 18 of the Act. The Corporation having a population of less than three lakhs may also constitute wards committees in its territorial area.</p>	<p>I. A Mohalla Committee may be constituted by atleast 11 residents of a Mohalla, by affixing their signature to a memorandum of association.</p>
<p>II. Every elected Councillor representing a ward within the territorial area of a Wards Committee and two persons residing within the territorial area of such Wards Committee as may be nominated by the Mayor shall be the members of that Committee.</p>	<p>II. Within a month of the constitution of Mohalla Committee, the first meeting of the general body shall be convened, in which the following business shall be transacted:</p> <ul style="list-style-type: none"> a. Election of the office bearers of the Managing Committee of the Mohalla Committee; b. Giving a name to the Mohalla Committee; c. Resolution to adopt the byelaws regarding the functions and conduct of business of the Mohalla Committee; d. Determination of the entry fee for membership, annual membership fee, arrangement for office, etc. <p>Decision to grant or not to grant membership to any person shall rest with the Managing Committee of the Mohalla Committee.</p> <p>The elected Councillor representing the territorial area of the Mohalla Committee in the Municipality shall be ex-officio member and patron of the Mohalla Committee.</p>

<p>III. The Ward Committee is given powers to sanction up to an amount of INR 50,000 for the functions of the Ward Committees. Expenditure of more than INR 25,000 is involved, shall be communicated to the Standing Committee within 15 days from the date of sanction.</p>	<p>III. The Mohalla Committee shall present an application for accreditation to the Municipal Officer. The accreditation to the applicant Mohalla Committee shall be granted on being satisfied that:</p> <ol style="list-style-type: none"> i. No part of its territorial area is included in the territorial area of any other Mohalla Committee. ii. One hundred or more families reside in its territorial area, out of which at least 51 residents have acquired membership of the Mohalla Committee and a Managing Committee has been constituted for the conduct of its business; iii. The bye-laws relating to the constitution, function and conduct of business of the Mohalla Committee are compatible with or analogous to these rules.
<p>IV. There shall be a separate office of every Ward Committee, and an in-charge thereof, under whom all the officers and employees of Wards Committee shall work. The officer in-charge shall be responsible for all the works of Ward Committee. The Ward Committees shall have general administrative control over the officers and employees working under the Ward Committees.</p>	<p>IV. The Municipality may assign, under an agreement or memorandum of understanding, operation and maintenance of civic services and amenities, maintenance and improvement of infrastructure works, management of any property of the Municipality or recovery of municipal taxes and fees to a Mohalla Committee in its territorial area.</p>

Maharashtra

The Maharashtra (Municipal Councils) (Nagar Panchayats and Industrial Townships) Act, 1965

The Maharashtra Municipal Corporations and Municipal Councils (Second Amendment) Act, 2008

Ward Sabha	Area Sabha
In every city, there shall be constituted Ward Committees comprising such contiguous electoral wards as may be decided by the Corporation.	The territorial extent of each area, which shall necessarily include the entire geographical territory in which all persons mentioned in the electoral roll of any polling booth in such territory, or, if the Government so decides, two or more contiguous polling booths (not exceeding five such polling booths) in such territory, are ordinary residents.
Number of Ward Committees: (1) Population above 3 lakhs upto 4.5 lakhs minimum 3 and max 4; (2) Above 4.5 lakhs and upto 12 lakhs min 4 and max 9 (additional Ward Committees for additional 1,50,000 population); (3) Above 12 lakhs and upto 24 lakhs min 9 and max 13 (additional Ward Committees for additional 3,00,000 population); (4) Above 24 lakhs min 13 and max 25 (additional Ward Committees for additional 6,00,000 population).	If the chairperson fails to convene four meetings of the Area Sabha continuously, within a period of two years, as provided under the sub-section (1), the State Government shall, upon a reference being made by the Commissioner, by order in the Official Gazette, disqualify the Chairperson for being a Councillor.
	Period of not more than six months shall elapse between the two meetings of the Area Sabha.

Gujarat

The Gujarat Provincial Municipal Corporations Act, 1949

Notification: KV-177-2007-AMN-8095-2450-P dated: 22-06-2007 – Ward Committee rules

G.R.No. MIS/102012/533/P dated: 03-02-2012 – Area Sabha

Ward Sabha	Area Sabha
The duration of the Ward Committee shall be coterminous with duration of the Corporation.	There shall be three Area Sabhas in each ward.
Where the population of the city is three lakhs or more, there shall be constituted by the Municipal Corporation, [subject to the rules made by the State Government]. Ward Committee or Committees consisting of one or more wards within the territorial area of a Corporation.	Councillors of the ward shall be nominated as the chairperson of the Area Sabha in their wards.

	Chairman of the Ward Committee could be chairman of one Area Sabha and other two councillors of remaining Area Sabha in the ward.
	Municipal Corporation shall appoint members of Area Sabhas from among the eminent citizens including retired Government officials, ex-councillors, teachers, NGOs, from literary and social fields, urban planners, architects, etc.
	There could be minimum nine members in the Area Sabha including Chairperson of the Area Sabha and maximum 21 members in each Area Sabha.

Many of the states have made amendments to their existing Municipal and Municipal Corporations laws. States such as Assam (The Assam Nagara Raj Act, 2007) and Haryana (The Haryana Municipal Citizens' Participation Act, 2008) have enacted special laws for this purpose.

The Assam Nagara Raj Act, 2007 outlines sections regarding the elections for the Area Sabha and also prescribes the time-frame within which nominations are to be filed and elections for Area Sabha are to be held.

The state of Kerala ³ has incorporated the provisions in The Kerala Municipality Act, 1994 through an amendment dated 24-03-1999, i.e., much before the implementation of the JNNURM scheme which mandated for such reforms. The Kerala government formed Ward Committee in ULBs having population above 1 lakh and Ward Sabha in ULBs having population below 1 lakh.

During the recent COVID-19 pandemic, states response to provide health care for the citizens saw an active participation of Ward Committee and Ward Sabhas (Area Sabha). States such as Kerala and Karnataka were leading examples in this case.

The state of Bihar passed The Bihar Municipal Act in the year 2007 and the rules for the Ward Committee and Area Sabha through The Bihar Urban Local Body (Community Participation) Rules, 2013. The interesting thing about the enactments in the Bihar State is that the Area Sabha members are elected under the supervision of the SEC and also has a provision of recalling the Area Sabha member/representative.

The Madhya Pradesh rules for Wards Committee and Mohalla Committee define their functions and powers in details including the financial powers.

³ <https://chennai.citizenmatters.in/chennai-citizen-participation-ward-committees-kerala-bengaluru-10075>

“Functions of the Wards Committees. - For the territorial area of the Ward Committees determined under sub-section (4) of Section 48-A the functions of the Ward Committees shall be as under, namely:

- (a) construction of new roads and drains as necessary and repair and maintenance of the roads, drains already constructed;
- (b) to provide water supply and new pipe connection
- (c) sanitation;
- (d) to give necessary recommendation for all type of licences;
- (e) collection of tax, fee, rate, etc;
- (f) to prepare and execute the schemes of market, development and beautification;
- (g) National programme, execution of programme relating to health. Women and Child Welfare, destitute pensions, handicapped and to run the homes for old age persons;
- (h) to remove the encroachments and unauthorised constructions;
- (i) to arrange for lighting of streets;
- (j) supervision of schools upto primary standard and hospitals upto the primary health centre;
- (k) development and maintenance of gardens, squares and public places;
- (l) activities relating to libraries, reading rooms and sports;
- (m) works relating to control of the food adulteration;
- (n) supervision of public distribution system;
- (o) plantation and betterment of environment;
- (p) other functions allotted by the Corporation.”

“Powers of Wards Committees. - For the territorial area of the Ward Committees, as determined, under Section 48-A the powers of Ward Committees shall be as under:

- (1) To sanction up to an amount of INR 50,000 for the functions of the Ward Committees as determined in Rule 3 with the condition that-
 - a. the procedure for the use of financial powers determined in the Act or the rules made thereunder shall be followed;
 - b. sanction may be granted only if the amount is available in the relevant head of budget; and
 - c. Information of every such sanction given by the Wards Committee in which expenditure of more than INR 25,000 is involved, shall be communicated to the Standing Committee within 15 days from the date of sanction.
- (2) Inspection and supervision of any work.
- (3) General administrative control over the officers and employees working under the Ward Committees.”

The Mohalla Committees are issued accreditation by the Municipal authorities and are membership based with well-defined functions and powers.

The State of Maharashtra has provision for Ward Committees for urban areas with a population of more than 3 lakhs of population as prescribed by the 74th CAA. It provides details on determination of number of Ward Committees in case of cities with larger populations. The subsequent amendments made by the State also outline the formation of Area Sabha. It specifically states that at least one meeting of Area Sabha is to be convened in six months. It

also states that, where a chairperson of the Area Sabha (the elected Councillor) fails to convene four meetings of Area Sabha continuously within two years, she/he can be disqualified as the Councillor and outlines the process for the same. However, it is to be noted that the Maharashtra Government has failed to make rules for the same.

Out of the 9 states compared above for the enactments made to give effect to the 74th CAA, only one state, namely Gujarat, which has done least to push the Ward Sabha and Area Sabha reforms to ensure direct citizens participation in the governance. Albeit, the Gujarat Government incorporated the Ward Committee in the Gujarat Provisional Municipal Corporation Act, 1949 through an amendment effected in 1993; however, the Ward Committee is not same as the Ward Committee as envisaged and incorporated by legislations on community participation passed by others states in the country. The composition of the Ward Committee has the elected Councillors only as its members and is made with elected Councillors from one or more wards. The Ward Committee envisaged in 74th CAA for ensuring and encouraging citizens participation in the governance process is different from the Ward Committee constituted in Gujarat. The rules notified to give effect to the functions of the Wards Committee do not talk of its composition. Also, the Area Sabha provision was given effect through a Government Resolution in 2012, but no rules to implement the same have been formulated and notified till date.

Chapter 3

Literature Review on Implementation of 74th Constitution Amendment Act

As discussed in earlier chapters, the 74th CAA—passed by the Parliament in 1993—was necessitated by the growing number of urban areas in the country and also the growth in their population size and area of jurisdictions. Hence, this amendment ensured a fixed tenure for the elected Municipality, regular conduct of elections, devolving of certain functions to the municipality, ensuring adequate finance for the functioning of the Municipality, citizens participation in the governance process through the Ward Committees and Area Sabhas.

It has been almost thirty years since this amendment was passed. Extensive literature explaining the impact of this amendments in the cities throughout India is available. Ample research papers have been written, primers and reports have been developed by NGOs and Central Government Ministry of Urban Development. In this chapter, we will review few such reports focusing on the different aspects of the implementation of the 74th CAA, especially on the idea of citizen participation in the urban governance process. Few comparative studies are also available with regards to the impact of implementation of the 74th CAA. Most studies have focussed on how the Constitutional Amendments been incorporated by different states in the country.

The 74th CAA were instrumental in ensuring fixed tenure and regular elections of the ULBs. The estimation and allocation of financial requirements of the ULBs was vested in the State Finance Commission (SFC) through the amendments ensuring that they are not subjected to the whims and fancies of the political government of the State. The amendments also ensured broad based representation of women and SC/ST communities, thereby making it more representative in nature and composition. The only thing that the amendment remains elusive, till date, is about the implementation of the community participation laws (CPL), i.e., formation of the Ward Sabha/Committee and Area Sabha.

Research dwelling into this aspect reveals a dismal picture in this regard.

Rationale for the Reform

The rationale for participatory governance is that it strengthens local democracy by increasing ‘spaces’ for participation by citizens in local governance processes (Cornwall & Gaventa, 2001; Devas, 2004; Nainan & Baud, 2008). Since the onset of neoliberalism and globalization in the past two decades, debates on the relation between the State, markets and citizens have centred on two processes: (i) the process of moving ‘out from government’ through ‘participatory governance’ and (ii) the process of bringing the state closer to the citizens through ‘decentralization’ (Pierre & Peters, 2000). The first process involves sharing of power by the government with citizens and private sector whereas the second process involves sharing of power between the higher tiers and lower tiers of government.

Gaventa (2006) defines ‘spaces’ in participatory governance as “*opportunities, moments and channels where citizens can act to potentially influence policies, discourses, decisions and*

relationships which affect their lives and interests” (p. 26). He proposes three types of participatory spaces which are dynamically related: closed, invited and claimed. In closed spaces, citizens are not allowed any say in decisions taken by the State. Invited spaces, are those where the State offers citizens the possibility of participation in decision-making processes and may be institutionalized and permanent or transient. In claimed spaces, citizens come together as autonomous agents to create opportunities to influence the State.

Researchers claim that such mandates should provide equal opportunity to all citizens to participate; delegate clear functions, powers and financial autonomy to the invited spaces (de Wit et al., 2008); and allow participants in these spaces to be involved in all three areas of influence, that is, formulation, process of passing and implementation of public policies (Fung & Wright, 2003).⁴

The provisions of 74th CAA 1992 provides a basis for the State Legislatures to guide the State government in the assignment of various responsibilities to Municipalities and to strengthen municipal governance. Accordingly, several State governments have amended their Municipal Acts/Laws/Legislations so as to bring these in conformity with the constitutional provisions. While State governments ratified the 74th CAA, they have found it difficult to implement its provisions in totality. The functional devolution to the ULBs has not been supported by adequate transfer of revenue sources. Further, the financial autonomy of the ULBs has been undermined as they have to seek approval of the State government for any revisions in the tax rates and user charges as well as have limited powers to institute new taxes. The existing legal framework as defined by the respective State Municipal Acts were not conducive for implementing the provisions of the 74th CAA in its true spirit (Madaboyina, 2016).⁵

The provisions for Ward Committees, as outlined in the Article 243 S of the 74th CAA, was significant for providing space for citizen participation in urban local governance. The Joint Parliamentary Committee (JPC) recommendations on the amendment bill indicates the rationale for including citizens in the Ward Committees. In order to maintain the sanctity of division of powers in the Indian Constitution, 74th CAA provided the State Legislatures with discretionary powers to decide on the composition, powers and functions of Ward Committees. This step was taken to ensure that the Central government did not transgress into State governments functional domain as local government is a state subject in the Indian Constitution (Zacharial et al., 2013).⁶

Participatory Governance: Citizen Participation for Effective Governance

Ward Committees were envisaged as participatory forums for urban governance that would bring the ULBs closer to citizens and provide a platform for citizen engagement in process of city planning and development. According to different scholars, citizen involvement in

⁴ Participatory Local Governance in Asian Cities: Invited, Closed or Claimed Spaces for Urban Poor?- Sejal Patel. Richard Sliuzas, Yola Georgiadou. 2016

⁵ Urban Local Bodies with reference to 74th Constitutional Amendment Act of 1992, Dr Gopi Madaboyina, Adikavi Nannaya University, January 2016.

⁶ Ward Committees, Citizen Participation and Urban Governance: Experiences of Kerala and Maharashtra, Yacoub Zachariah Kuruvilla and Smita Waingankar, 2013

governance through participatory forums expected to improve representation of citizens, especially of the poor and marginalised. It is also expected to increase effectiveness of public policy by providing feedback to policy-makers or by allowing citizens to shape policies according to their needs. Such forums can play a role in developing mechanisms to extract accountability of elected representatives and local officials by providing a space for citizens to critically evaluate their performance. All of these outcomes are believed to contribute to the larger goals of improving democratic legitimacy and develop an engaged citizenry (Chottray & Stoker, 2009).

Participatory governance as a subset of governance theory emphasises democratic practices. It offers a set of theory and practices of public engagement through deliberative processes. It extends citizen role beyond that as a voter to include a more direct deliberative involvement in pressing policy issues. It seeks to develop practices that are founded on a more equal distribution of power, a fairer distribution of resources, the decentralisation of decision-making processes, development of a wide and transparent exchange of information, the establishment of collaborative partnerships, an emphasis on interinstitutional dialogue and greater accountability (Fischer, 2010).

The question of why citizens should be allowed to participate in city governance process has been answered by Sorensen and Sagaris (2010). According to them, there are five answers to this question:

- Citizens provide local knowledge and experience which is essential wherever governments seek to make cities more liveable.
- Local participation may build active support among residents that is crucial to success of local programmes.
- Local people have strong incentives to improve their own environments and when given an opportunity to make a difference, often work very hard to ensure that policies succeed.
- Citizen engagement in planning may help to strengthen social cohesion and capacity for environmental management.
- The process of public engagement may generate or strengthen a sense of shared interests and place identity.

Ward Committees can be considered as participatory forums initiated by the State through which citizens can participate by fair deliberation in distribution of resources and planning processes locally, thereby setting framework for allocation of resources.

The first major study on ward committees by the Institute of Social Sciences (ISS), New Delhi—documented in Sivaramakrishnan (2006)—found that only 19 out of 29 Indian States had enacted an enabling state legislation for the purpose of formation of Ward Committees. Further, only eight of these 19 Indian States had constituted the Ward Committees. While, only Kerala and West Bengal have a Ward Committee for each ward, Kerala has moved beyond the provisions of 74th CAA in providing Ward Committees in all municipal bodies with more than one lakh population.

Baud et al. (2009) confirms that the Ward Committees hardly perform satisfactorily anywhere. They have limited powers and resources with limited impact on participation improved governance or service delivery. While problems can be partly attributed to design issues in terms of delegated tasks and finances, civil society representation is also poorly organised and links to citizen organisations are weak. Thus, both Sivaramakrishnan (2006) and Baud et al. (2009) have pointed out that most of the Indian States have not implemented an enabling institutional design for the Ward Committees in terms of its proximity to citizens, representation of civil society in the committees and devolution of powers and functions to ward committees for effective ward level governance.

The state of Kerala has provided an elaborate legal and institutional framework for functioning of Ward Committees, especially with regards to participation of citizens.⁷ According to de Wit et al. (2009), Kerala has been the most ambitious in establishing and empowering Ward Committees. Ward Committees in Kerala have tasks that include preparing and supervising ward-level development schemes, identifying beneficiaries of welfare schemes, among many others. De Wit et al. (2009) state that there is a need for distinction between institutional design of ward committees in statutory legislations such as the Municipal Acts, composition of members, powers and functions of Ward Committees in actual practice. Further, they point to reported shortcomings such as large size of each Ward Committee and reluctance of authorities to delegate powers have reduced them to a mere consultative body unable to implement ward development plans as per legislation. Despite such cautions, de Wit et al. (2009) states that the experiences of Ward Committees in Kerala can provide lessons to strengthen legislation on Ward Committees both at the national- and state-level because of its potentially participatory and representative institutional design.

Institutional Design: Not the Only Enabling Condition for Effective Participatory Governance

The study of Ward Committees of Cochin city in Kerala (de Wit et al. (2009)) shows that creation and providing a 'model' legal framework for Ward Committees to institutionalise citizen participation will not directly translate into effective outcomes. The Ward Committees need to be part of a larger municipal system that can respond to the demands and needs thrown by opening municipal decision-making processes to citizens through devolution of administrative and financial powers as well as autonomy based on the principle of subsidiarity.

However, the urban governance systems have not been decentralised uniformly across states in the country. Also, where administrative responsibilities have been devolved, political economy factors translate into States not assigning adequate revenue streams for local bodies to meet their expenditure responsibilities, thus limiting their de-facto independence (e.g. Singh, 2007; McKinsey and Company, 2010).

⁷ Ward Committees, Citizen Participation and Urban Governance: Experiences of Kerala and Maharashtra, Yacoub Zachariah Kuruvilla and Smita Waingankar, 2013

The Government of India's high powered expert committee on urban infrastructure and services (GoI, 2011a) affirms that governance and accountability is the weakest and most crucial link in India's urban transformation, and that JNNURM has exposed the lack of capacity at the level of local government to prepare and implement urban infrastructure projects. Therefore, the Committee advocates increased governance devolution and urban management capacity building during a second, post-JNNURM extended phase of reforms that should apply equally to all cities. In line with the civic challenges reviewed in this paper, the Committee cautions that urban reform policies should differentiate between the needs of large and small cities. Also, post-JNNURM reforms should integrate the needs of the urban poor into broad task of managing urbanisation sustainably, and not focus on their needs in isolation.⁸

The state of Maharashtra—while legislating for Ward Committees in its Municipal Acts, has not provided an elaborate legal framework. The Ward Committees in Mumbai Municipal Corporation were constituted only after judicial intervention. In 2009, the State enacted the CPL, which is yet to be implemented⁹. The CPL sought to establish Ward Committees in each electoral ward and Area Sabhas at polling booth level with each municipal electoral ward.

The TERI report (2010)¹⁰ constituted by the GoI's Ministry of Urban Development sums up the gaps and recommendations as discussed below. The emerging problems in having functional Ward Committees are:

- Although most of the States have enacted the laws to have Ward Committees, however the Ward Committees are functional only in a handful states such as Kerala, Karnataka, etc.
- Wherever they are established, the delegation of functions and finances are weak, thereby making them ineffective.
- The proximity between the citizens and the government is not achieved to the desired levels.
- Nomination process is biased and politically driven.
- Citizens also lack the initiative and drive to take part in the development of their city/neighborhood/area.

Community participation at sub-ward level, by establishing Area Sabhas, has also not taken off as desired, in spite of the provision of enacting the CPL under JNNURM. Only 12 States have enacted the legislation, but none have constituted Area Sabhas as yet. Some of the State Acts prepared or enacted to the provisions prescribed under the Model Nagar Raj Bill (MNRB). There is a need to look at these issues in detail and develop essential guidelines, which could become part of the Act/Amendment carried out by the States. This will also bring in uniformity and clarity in the functioning and domain of Area Sabha system.

The aim should however, be to have a system in place first. Considering the weak situation of the Ward Committee system, bringing in place Area Sabhas looks far more challenging. Also,

⁸ Urban challenges in India: A review of recent policy measures - Sangeeta Nandi, Shama Gamkhar, The Lyndon B. Johnson School of Public Affairs, University of Texas at Austin, 2012

⁹ Ward Committees, Citizen Participation and Urban Governance: Experiences of Kerala and Maharashtra, Yacoub Zachariah Kuruvilla and Smita Waingankar, 2013

¹⁰ Enhancing public participation through effective functioning of Area Sabhas. TERI. May 2010

it seems that for an Area Sabha system to be in place, a functional Ward Committee system is a pre-requisite.

Recommendations

- In spite of the fact that the Ward Committees have not taken off for various reasons as desired and envisaged in the 74th CAA, they are essential in enhancing citizen participation in governance process. TERI recommends that as a first step, all States should implement CPL and establish Ward Committees in all cities and towns having population 1 lakh and above. At a later stage, the Ward Committees could be established in smaller cities as well. The Central Government should play a key role in pushing the States to implement the CPL rigorously.
- TERI recommends that once the Ward Committees are established and made functional, Area Sabhas should be constituted. Area Sabhas have been envisaged within the MNRB to be an institution at a sub-ward level that increases proximity between the citizen and the government. The 'wards' shall be divided into 'areas' as per the polling booth norm suggested in the MNRB. The Area Sabha model is based on the Gram Sabhas model, wherein there is one elected representative (*panch* or *sarpanch*) for approximately 450-600 people. In the context of cities, it has been argued that a resident welfare association (RWA) or a *mohalla* (neighbourhood) will be a proper functional unit. However, not all cities have demarcated neighbourhoods or even *mohallas*. In many cities, RWAs do not exist. Polling booth system (with a population ranging from 1,500-2,000 people at an average) as proposed in the MNRB will therefore, be a uniform and practical unit for constituting areas.

Chapter 4

A Peek into the Model Nagar Raj Bill

The draft Model Nagar Raj Bill (MNRB) was proposed by the GoI's Ministry of Urban Development to be enacted as the CPL. The idea behind the MNRB was to encourage active participation of citizens in the decision-making and governance at the local-level. It envisaged the formation of Ward Sabha or Ward Committee at the ward-level and to further make the process inclusive and participatory Area Sabha or Mohalla Sabha was proposed.

Area Sabha

The members of Area Sabha essentially ought to be a voter of a particular area or a booth. One or more such booths—not more than five—can form an Area Sabha. The qualification for Area Sabha representative is same as for Ward Councillors/Corporators. Election for Area Sabha representatives is envisaged and procedure laid down for the same. The SEC is to supervise and conduct the elections. The term of office for Area Sabha representative is coterminous with that of the Municipality concerned.

Functions of Area Sabha

An Area Sabha may, having regard to its managerial, technical, financial and organizational capacity, and the actual conditions in the municipal area, perform and discharge the following functions and duties, namely:

- a) To generate proposals and determine the priority of schemes and development programmes to be implemented in the jurisdiction of the Area Sabha and forward the same to the Ward Committee, or in its absence, the Municipality, for inclusion in the developmental plans of the Ward Committee or Municipality as the case may be;
- b) To identify the most eligible persons from the jurisdiction of the Area Sabha for beneficiary-oriented schemes on the basis of criteria fixed by the Government at both Centre and States, and prepare list of eligible beneficiaries in order of priority and forward the same for inclusion in the developmental plans of the Ward or Municipality;
- c) To verify the eligibility of persons getting various kinds of welfare assistance from Government such as pensions and subsidies;
- d) To suggest the location of streetlights, street or community water taps, public wells, public sanitation units, and such other public amenity schemes within the area of the Area Sabha;
- e) To identify the deficiencies in the water supply and street lighting arrangements in the Area Sabha jurisdiction and suggest remedial measures;
- f) To assist the activities of public health centres in the area, especially in disease prevention and family welfare and create arrangements to report on the incidence of epidemics and natural calamities;
- g) To provide and mobilise voluntary labour and contributions in cash and kind for development programmes, and to supervise such development works through volunteer teams;
- h) To undertake and support tax mapping, and to remind Area Sabha members of their obligations to pay municipal taxes and user charges;

Powers of Area Sabha

An Area Sabha may, subject to the procedures that may be prescribed in this regard, exercise the following rights and powers, namely:

- i. To get information from the officials concerned as to the services they will render and the works they propose to do in the succeeding period of three months after the meeting;
- ii. To be informed by the Ward Committee about every decision concerning the jurisdiction of the Area Sabha, and the rationale of such decisions made by the Ward Committee or the Government;
- iii. To be informed by the Ward Committee of the follow up action taken on the decisions concerning the jurisdiction of the Area Sabha;
- iv. To impart awareness on matters of public interest such as cleanliness, preservation of the environment and prevention of pollution;
- v. To promote harmony and unity among various groups of people in the area of the Area Sabha and arranging cultural festivals and sports meets to give expression to the talents of the people of the locality; and
- vi. To cooperate with the Ward Committee in the provision of sanitation arrangements in the area.

Ward Committee

Ward Committees is to have the Councillor as its member and chairperson and representatives from Area Sabha and civil society as members. The functions of the Ward Committee are listed as below:

- a) Provide assistance in solid waste management in the ward;
- b) Supervision of sanitation work in the ward;
- c) Provide assistance for the preparation and encouragement of the development scheme for the ward;
- d) Encourage harmony and unity among various groups of people in the ward;
- e) Mobilize voluntary labour and donation by way of goods or money for social welfare programmes;
- f) Provide assistance in the implementation of development schemes relating to the ward;
- g) Provide assistance for identification of beneficiaries for the implementation of development and welfare schemes;
- h) Encourage art and cultural activities and activities of sports and games;
- i) Ensure people's participation in the voluntary activities necessary for successful implementation of the developmental activities of the Municipality;
- j) Assist in the timely collection of taxes, fees and other sums due to the Municipality;
- k) Ensure maintenance parks in the ward;
- l) Ensure maintenance of street lighting in the ward;
- m) Perform such other functions as may be assigned to it by the Municipality.

The draft further envisages the duties of the Ward Committee:

- a) Produce the Ward Plans in a manner consistent with the District Plans and complete this exercise within the time specified by the State government;
- b) Prepare the Ward budget in accordance with the Ward Plans and complete this exercise within the time specified by the state government;

- c) Encourage local-level alternatives for implementation in all the areas that the Ward Committee has responsibility for;
- d) Ensure optimal collection of all revenue sources as specified in the schedule;
- e) Map the Ward Infrastructure Index for that ward.

The Ward Committee is to prepare:

- 1. Preparation of a calendar of development activities;
- 2. Preparation and compilation of plans;
- 3. Preparation of ward budget with help of Area Sabhas;
- 4. Constitute a Ward Finance Committee to maintain accounts and prepare budget
 - a. Levy penalties
 - b. Perusal of bills;
- 5. Function as supervisory mechanism and work for ward development.

Since the MNRB was not mandatory to be adopted, the States have enacted CPLs as per their convenience. However, role and functions of the Ward Committee are almost similar in most enactments. Going beyond the mandatory provision of the Article 243S, some states have enabled the provision of Ward Committee in Municipalities having population below three lakhs.

Chapter 5

Models of implementing 74th Constitution Amendment Act: Case Studies of Indian States

Enacted in 1992, the 74th CAA envisioned a participatory governance model for the rapidly urbanising India. At the same time, the 73rd Amendment for the PRIs and participatory model of governance in the form of Gram Sabhas was adopted and incorporated in the Constitution of India by the Parliament.

After the passing of the 74th CAA, various states ratified both the Amendments and incorporated the same in the form of amendments or new laws in their administrative jurisdictions. This ensured that there were regular elections held for the ULBs (both Municipality and Municipal Corporation). The term of the ULBs was regulated and elections were held every 5 years by the SEC. Reservation of seats for women and SC/ST ensured their participation in the municipal affairs. The functions as enumerated in the Twelfth Schedule inserted by the 74th CAA were delegated and devolved to the Municipal-level. Financial resources to the ULBs were granted as per recommendations of the SFC.

To ensure participation of the citizens in the governance process, similar to the Gram Sabhas, the Ward Committee were to be formed as per the Article 243S. But the provisions relating to the constitution of a Ward Sabha required push in the form of mandatory reforms to receive grants from the JNNURM scheme of the Central Government. Most of the States enacted provisions relating to the Ward Committee after 2005 in the form of CPL. However, the implementation of the CPL remained dismal, as discussed in the previous chapter.

There are some silver-linings though, in few cities, wherein citizen initiatives and NGOs have taken up the ardent task of implementing the provisions for participatory governance practices. Although there are limitations to these various initiatives such as they were for a limited period of time, digitally-driven initiatives, more focussed on middle-class, etc.; nevertheless, they guide us to the various attempts made at different levels towards implementation of the 74th CAA in the country.

Karnataka

The state of Karnataka enacted the CPL vide The Karnataka Municipal Corporations (Amendment) Act, 2011. The amendments relating to the formation of Ward Committee and its functions have the following main provisions:

- 1) The Ward Committee shall consist of the Councillor of the Corporation representing the Ward and 10 other members to be nominated by the Corporation; out of which, at least two members belonging to the SC and the ST; at least three women members; and at least two members representing Resident Welfare Associations.
- 2) The term of the nominated members shall be coterminous with the term of the office of the Corporation.

- 3) The Corporation may in addition to the allotment of funds to various projects in the budget, also allot not less than the prescribed amount towards ward development scheme to each ward which shall be utilised by the Ward Committee in the manner as may be prescribed.
- 4) The Ward Committee shall meet at least once in a month.

Provisions for Area Sabha:

- 1) Each area shall comprise the polling area of one or more contiguous polling stations in a ward, but in any case, not exceeding total area of five such polling stations.
- 2) All persons who are registered as voters in the electoral rolls of the polling stations in an area shall be members of that Area Sabha.
- 3) Each area shall have an Area Sabha representative who shall be nominated by the Corporation on the recommendation of the Councillor of the particular ward.
- 4) If Councillor of any ward, for any reason ceases to be the Councillor before the expiry of the term of the Corporation, the Area Sabha representatives of that ward shall also cease to be Area Sabha representatives and new Area Sabha representatives shall be nominated in accordance with sub-section (1).

In the cities of Bangalore, Mangalore, Udupi, Mysore etc., citizen groups and NGOs have made efforts towards implementation of the above provisions as envisioned by the 74th CAA. Organisations such as CIVIC, Janaagraha, Praja Foundation, Urban Research Centre (URC) have taken up programmes and campaigns towards raising awareness, asserting participatory mechanisms and activating the citizen participation avenues emanating from the Ward Sabha and Area Sabha provisions in the State Municipal Act.

Janaagraha Centre for Citizenship and Democracy (JCCD)

Janaagraha focussed their work initially on the provision of basic services, wherein every citizen is entitled to, such as overflowing garbage in backyards, arduous commutes to workplaces, shabby housing and minimal social or cultural outlets. These day-to-day travails pointed to a deeper malaise within the cities—poorly-resourced city governments and badly managed cities.

The CPL, originally called Nagara Raj Bill 2004, was presented at a seminar in the Indian Institute of Management (IIM), Bangalore, in December 2004. Designed by Mr. Ramesh Ramanathan, the founding member of an organization in Bangalore called Janaagraha Centre for Citizenship and Democracy (JCCD), the CPL emerged from Janaagraha's programme—'Ward Vision'—wherein a few hundred citizens participated in the ward planning and budgeting exercises undertaken in about 10-15 wards out of the 100 wards in Bangalore. Eventually, the Central Government made it mandatory for States receiving JNNURM funding to implement the CPL.

Janaagraha, believes that cities should be viewed through a structural construct which they refer to as the city-systems framework. Depicted through a metamorphosing butterfly with four wings, the city-systems framework defines four significant aspects of urban transformation: (i)

Urban Planning and Design; (ii) Urban Capacities and Resources; (iii) Empowered and Legitimate Political Representation and Transparency; (iv) Accountability and Participation. They believe that fixing India's city-systems is crucial for fixing our cities and consequently improving the quality of life for our citizens.

Creating transparent and accountable urban local government through reporting and disclosure. Building a growing constituency of citizens who are engaged in their cities' budgets. Using the voice of citizens to tackle 'retail' corruption in government services through an online platform www.ipaidabribe.com. Fostering the urban civic 'community' by allowing citizens to connect with one another, and with their civic agencies/local governments, to make a real difference in their own neighbourhoods through ichangemycity.com. Systemic interventions and the 'three Ps' (Partnerships, Platforms, and Policy reform) to scale Janaagraha does not run 'one-off' direct interventions. It runs initiatives that can be replicated, scaled, and adopted from the grassroots to government levels throughout India, through Partnerships, Platforms, and Policy reforms.

Urban Research Centre

The Urban Research Centre (URC) carried out a project from 2000-2005 in the Mangalore and Udupi towns of coastal Karnataka.

The initiation of the urban governance projects in Mangalore and Udupi goes back to a seven-cities study in Karnataka during 1998-1999. The study highlighted the interventions at local-level to improve understanding between citizens, elected representatives and the urban local government at one level and facilitated the collaboration of like-minded NGOs in the city at another level.

Although it was a research project, the project is seen to involve citizens, educate and prepare to understand the larger processes through action planning techniques. The project works initiated in Mangalore and Udupi were different according to the local priorities, expertise of the team members and need of the situation. The project totally focussed 'on process oriented' approaches at both local- and city-level. Many methods and tools were tested during the project period to involve citizens in discussions, interact with the urban local governments, working with elected representatives on ward management techniques, facilitating NGO networks at city-level, etc. The NGO networks in Mangalore and Udupi spun off many sub-committees to work on specific topics, generating public debates on development projects.

The project envisaged local collaboration as a two-way relationship due to the nature of issues and local needs, the ward-level to look into planning and the city-level to facilitate city-level forum to debate developmental issues.

The two aspects identified as impacting local economy were:

1. The way infrastructure and development works are planned, and the way this process is responsive to local needs;
2. Linking to larger-level forums where the type of investments is made was accountable to local groups;

3. In many ways, the governance aspects of the way infrastructure and services are planned influences the local economy and livelihoods.

The next phase (referred as Phase 2) of work in Mangalore (2000-2002) and Udupi (2001-2004) had the following objectives:

1. To identify and select the important issues concerning citizens.
2. To understand the basis of these issues, and roles of various stakeholder and interests.
3. To initiate consultation processes at ward-level to bring all local stakeholders together to plan for resolving that issue.
4. To document the 'Best Practices' initiated by NGOs, elected representatives, and RWAs, and tools developed for decentralized planning.
5. To empower the elected representatives with specific input needs of citizens to handle ward management better.
6. To create a platform for interaction of citizens and groups at city-level.
7. To develop a ward-level map for local level planning.
8. To bring about overall improvement in the governance by making it more participatory, transparent and responsible.

Praja

Praja is a non-partisan organisation working towards enabling accountable governance since 1997. Praja believes that urban governance in India has failed to deliver good governance to the citizens of urban India due to the existing urban governance structure in the country. The lack of true grassroots democracy where local elected representatives and local governments are not sufficiently empowered and not responsive to the citizens is the primary cause for lack of effective governance in cities.

Praja has undertaken data-driven research for identifying capacities in urban governance, map inefficiencies in their work processes and identify best practices. It then provides this information to urban governance stakeholders including elected representatives, administration, citizens, media and academia; and works with leadership amongst its stakeholders to identify and address inefficiencies in building their capacities to improve work processes in urban governance. They work with a vision to improve quality of life for all. Their mission goal is—simplifying people's lives, creating tools for better governance and making democracy work

Over the last two decades, Praja has been working towards enabling accountable governance. They have conducted data driven research on civic issues, and inform key stakeholders such as elected representatives, citizens, media, and government administration and work with the elected representatives to equip them to address inefficiencies in their work processes, bridging information gaps, and mobilising them in taking corrective measures advocating for change.

The Urban Governance Reports map the implementation of the 74th CAA across all states in India by reviewing the existing governance and institutional structures in place across Indian cities with the aim of reforming and empowering urban governments.

They have also come up with Urban Governance Index¹¹ (UGI)—a measure of the extent of structural empowerment of the city governments—as enabled by the State Government. It is a mapping across states, on indicative themes of democratic empowerment and accountability pertaining to urban governance. The UGI is built over four themes, namely, (i) Empowered City Elected Representatives and Legislative Structure; (ii) Empowered City Administration; (iii) Empowered Citizens; and (iv) Fiscal Empowerment. The UGI helps in mapping and monitoring the implementation of the urban governance reforms which looks at democratic empowerment and accountability in urban governance across states in the country.

Sadbhavna Sangh

- In Maharashtra: Based in Mumbai, Sadbhavna Sangh is motivated by the Gandhian ideology and believe in Vinoba Bhave’s vision of *Lokneeti*—Power to People. The CPL reforms were passed in 2009 by the State Assembly. With a vision to transform from representative democracy to participatory democracy, the journey of Sadbhavna Sangh progressed towards implementing the provisions 74th CAA in form of establishing Mohalla Sabha or Area Sabha.

Empowered by the 2009 Amendments for establishing Area Sabha in the state and guided by the MNRB, 2007¹² (as proposed by the Central Government), the organization worked on forming Mohalla Sabha.

Various organisations working with urban issues were brought together to form a platform—Nagar Raj Bill Samarthan Manch (NRBSM), was anchored by the team of Sadbhavna Sangh. The NRBSM initiative also ensured that various local organisations, youth and social mandals, self-help groups and women groups were made active stakeholders in the whole process, thereby creating an ownership of the local citizens. At the same time, they also spread awareness about these amendments throughout Maharashtra and other states such as Gujarat. Sadbhavna Sangh also held several workshops in various city of Gujarat. They have also engaged with the SEC in Maharashtra regarding its role in implementing the 74th CAA through elections to Area Sabha.

Presently, the Sadbhavna Sangh has formed about 26 Area Sabhas in nine administrative wards of Brihanmumbai Mahanagar Palika (BMC). These Area Sabhas are self-driven through initiatives of the elected Area Sabha representatives. Sadbhavna Sangh has also been instrumental in taking this concept to Dhule Municipal Corporation, Kalyan-Dombivali Municipal Corporation and Vasai-Virar Municipal Corporation. The idea of formation of Area Sabha has also been implemented in Barsi Nagar Parishad in Solapur District and Devgadth-Jamsande Nagar Panchayat in Konkan area in Maharashtra.

¹¹ <https://praja.org/>

¹² <https://ccs.in/sites/default/files/Misc/NagaraRajBILL.pdf>

Many of the Area Sabhas in Mumbai are active since more than a decade and have done exemplary work in engaging with their elected Corporator and the Municipal Corporation. To quote a recent example, where the Area Sabha was instrumental in allotment of INR 300 crore towards a hospital project in their ward.

Sadbhavna Sangh has also engaged with academic institutions thereby also engaging students and researchers in the whole process. It has developed a module for formation of Area Sabha and its election. Procedures have been developed and evolved regarding working of the Area Sabhas. It is one of the most active groups in the country striving to ensure implementation of 74th CAA, both in letter and spirit.

- In Gujarat: As mentioned above, the Sadbhavna Sangh has conducted several workshops to raise awareness regarding the 74th CAA and the provisions made by the Gujarat Government in this regard. It has been actively engaging with initiatives in this regard in Gujarat.

Although the state of Gujarat has effectuated the 74th CAA to urban areas above 3 lakhs of population, the Urban SETU effort in Bhuj has been an example wherein demand for participatory governance can be generated from below.

Urban SETU, with support from Homes in the City (HIC) programme, has taken up the task of forming Ward Sabha and Area Sabha in various wards of Bhuj Municipality. SETU Abhiyan, while working in the Bhuj, realised that in absence of linkages between citizens and the Municipality, people's participation in development works prevented the Bhuj Municipality in undertaking need-based planning and development.

Poor service delivery and absence of need-based prioritised planning and development discouraged citizens to pay municipal taxes. Therefore, SETU Abhiyan came forward to work from both sides, municipality as well as citizen, and formed Ward Committees as a medium to intervene in this matter in order to improve the existing situation through decentralised local-level structures and citizen participation.

In order to demonstrate principles of decentralised urban governance in Bhuj, despite having population of only 1.48 lakhs (Census 2011), SETU Abhiyan started with formation of Ward and Area Committees in different wards having balanced gender representation with the support of citizens and ward councillors of the respective wards. Offices of the Ward Committees were setup in the respective wards and they engaged in preparation of development plans for social, economic and physical development of the ward.

In order to engage people in this process, small meetings in the intervention area were organised wherein information about various government schemes and assistance to needy families for enrolment under appropriate schemes were shared. This process helped gain the faith of the community and also identified leadership within the community and in the area enabling to spread the concept of Area and Ward Committees and their importance in area development and resolution of problems towards access to basic services and amenities. Over the time, these

committees started working as pressure groups to demand and execute work through the Municipality and other public authorities in their areas.

The major strategies adopted for formation and activation of these committees were as follows:

- Ward Committees were formed through a democratic process with prescribed norms (SETU Abhiyan has framed rules considering the existing legislations and ground situation) in the presence of the President and Chief Executive Officer (CEO) of the Municipality,
- Ward development plans were prepared by the Ward Committees based on available primary and secondary data and knowledge of local residents,
- 'Mahiti Mitras' (Information Centres) were set-up as kiosks enabling easy access to information on government resolutions and entitlements for the citizens, and
- Ward offices established in wards enabled smooth functioning of municipal services and approaching councillors and municipal staff.

Regular trainings are organised by SETU Abhiyan for the newly elected ward Councillors and Ward Committee members where they are informed about their roles and responsibilities towards their ward and the city, meaning of decentralisation and decentralised governance, functions of municipalities as per constitutional provisions. The idea is to train Councillors so that they can understand their roles and powers for development of their wards. These trainings ultimately aim to help them to work more efficiently and appropriately for development of the city.

Achievements of the Ward Committees

- After formation of Ward Committee, a tangible change was seen in Ward No. 2 and 3, in terms of enhanced sensitivity and ownership for their own issues as well as taking leadership for resolving them. Subsequently, the members of the Ward Committee have become accountable and responsible to their own wards.
- Formation of Ward Committee has been instrumental in bringing citizens on same platform to discuss the issues of their area and find solutions to resolve problems. It is a step forward for them to work as decentralised planning unit within the wards.
- Ward Committee has been able to garner participation in different development initiatives. This has made impact at micro-level in spheres such as carrying-out participatory planning and implementation, identifying genuine beneficiaries for toilet construction, etc., which appear to be small, but are important aspects of an effective programme implementation work.
- About 90% of the citizens have received Aadhaar Cards; Ward Committees have coordinated with concerned departments to provide other entitlements to the citizens.
- Ward plan with a budget was prepared for the Financial Year 2016-17 for Ward No. 2 which was officially submitted to the Municipality. A large number of proposed works have been considered by the Municipality.
- During the last two Financial Years, i.e., 2015-16 and 2016-17, the Bhuj Municipality sanctioned the work amounting INR 90.8 lakhs in Ward No. 2 and 3, as per the proposals made by the respective Ward Committees in the ward plan.

- The quality of all implemented works, including construction of pipeline for water supply, roads, sewage network, school, toilets, etc., have improved because of close monitoring of the works by the Ward Committee.
- Ward Committees with the financial support from the Urban Governance Fund, executed various development works such as laying down water supply lines, parapet wall in a school, placement of dustbins, streetlights and information boards at various sites, etc., in their wards within a year worth INR 1,31,114 with the community contribution of INR 72,414. The ratio of community contribution against the governance fund was 45:55.
- Councillors are updated about situation of different areas of their wards through the Ward Committee members and hence work accordingly.
- Ward Committee members are now aware about service benchmarks provided by different government departments as SETU Abhiyan organises training programmes from time to time with various government departments. In fact, this has helped to monitor services being provided by public institutions and maintain quality accordingly.
- Ward Committee also works on social issues such as women safety, child education, quality of services being provided by government ration shops, *anganwadis*, primary schools running in their wards. Ward Committee organises religious and social festivals and works for communal peace and harmony.
- Ward Committee encourages citizens to pay municipal taxes regularly so that citizens ward committee can demand regular and quality services rightfully.
- Considering the importance of the Ward Committees and ward offices, the Bhuj Municipality has initiated process for setting up four more ward offices in Ward No. 4, 7, 10 and 11; where SETU Abhiyan is supposed to facilitate formation of Ward Committees in these four wards.

Chapter 6

The Amendments in Gujarat: How to Strengthen the Implementation and Provisions of 74th Constitution Amendment Act

Gujarat is one of the highly urbanised states in India. According to 2011 Census 42.60%, i.e., 25,745,083, of its population resides in the urban areas. The population growth in the urban areas was 36%, according to 2011 Census. The Gujarat state provides for election of four councillors in each ward in the Municipal Corporation and Municipalities.

The Gujarat Government has provided for constitution of Ward Committee in city with population size larger than 3 lakhs, which covers only the six Municipal Corporations. The average ward size in Ahmedabad is 1.18 lakhs¹³, 1.49 lakhs in Surat¹⁴, 87,826¹⁵ in Vadodara, 83,262¹⁶ in Rajkot, 53,165¹⁷ in Bhavnagar. Thus, for the above Municipal Corporations in Gujarat, the average ward population ranges from 1.49 lakhs in Surat to 53,165 in Bhavnagar. The larger the municipal bodies, the citizens do not have easy access to the elected representatives since the ward sizes become very large.

To avail funds under the JNNURM scheme, mandatory reforms were adopted by the state of Gujarat including the CPL. To incorporate the provisions as recommended under the CPL, the Gujarat Government enacted some laws, while there were government resolutions for others, as listed below:

1. Ward Committee Notification: KV-177-2007-AMN-8095-2450-P dated: 22-06-2007.
2. The District Planning Committee Act, 2008.
3. The Metropolitan Planning Committee Act, 2008.
4. Area Sabha Notification: G.R. No. MIS/102012/533/P Dated: 03-02-2012.

Through an amendment to the Gujarat Provisional Municipal Corporation Act, 1949, the Section 29(A) was inserted in 1993 to constitute Ward Committee by the Municipal Corporation. The amendment stated that each Ward Committee is to be comprised of councillors of the Municipal Corporation representing a ward with the territorial area of the Ward Committee. It took about 14 years for the Gujarat Government to notify rules for the implementation of the Ward Committee. The rules for Ward Committee were notified vide Notification: KV-177-2007-AMN-8095-2450-P dated: 22-06-2007. The rules only dwelled on the functions and duties of the Ward Committee. Thus, the Ward Committee in Gujarat defy the very essence and intent of community participation and restrict it to the elected councillors.

The constitution of the Area Sabha in the mission cities under the JNNURM were done through a government resolution, which still remains unimplemented. The number of Area Sabha is capped at three (there were three councillors representing a ward at the time of resolution in

¹³ <https://timesofindia.indiatimes.com/city/ahmedabad/delimitation-of-amc-completed/articleshow/78470321.cms>

¹⁴ <https://www.suratmunicipal.gov.in/Departments/ElectionCensus/ElectionCensusWardwiseAllotmentSeats>

¹⁵ <https://vmc.gov.in/pdf/ElectionWebsiteUpdation.pdf>

¹⁶ <https://www.indiacensus.net/district/rajkot>

¹⁷ <https://www.indiacensus.net/district/bhavnagar>

2012). The number of members including the chairperson was kept minimum at 9 and maximum 21 in each Area Sabha. Minimum one meeting was prescribed in a year for the Area Sabha. However, this remains unimplemented.

There is a long way to go towards participatory and inclusive governance in Gujarat, even in terms of implementation of legal provisions as envisaged by the 74th CAA.

Strengthening implementation and provisions of 74th CAA in Gujarat

Participatory and inclusive governance is the fundamental brick of a democracy. Local governments are the first tier of governance for a citizen. With the rapid urbanisation and influx of migrants to the cities there is a need for system overhauling for participatory and inclusive urban governance.

To move towards Sustainable Development Goals (SDGs) and achieve the targets as set by the Millennium Development Goals (MDGs) ensuring sustainable, egalitarian, and just development for all by proper implementation in letter and spirit of the 74th CAA is required.

- Representative democratic procedures have become insufficient for fully incorporating citizens in the decision-making process, hence direct involvement of citizens in decision-making to be ensured.
- The MNRB,¹⁸ as proposed by the GoI for enabling community participation, to be adopted in Gujarat.
- Awareness and education campaigns for citizens, community-based organizations (CBOs), NGOs and elected representatives at all levels to be pursued.
- Trainings on budget formulation, ward planning, etc., to be organised for voters.
- Public participation in designing of urban policies to be a precondition. This will help to improve the quality of public policies in terms of efficiency and effectiveness.
- Public participation must be part of an intersecting strategy that brings together the various municipal areas through local participation schemes.
- Make initial efforts in a few critical areas that are “visible” and affect daily lives of most residents.
- Demonstration effects are important and more cities will learn from few success stories.
- Mohalla Sabha and Ward Committee should get untied fund from the Municipality, State and Central government.
- Network of citizens, CBOs, NGOs working on urban issues to be formed to push for decentralised and participatory governance reforms.
- Legal recourse to be taken, where necessary.

¹⁸ <https://ccs.in/sites/default/files/Misc/NagaraRajBILL.pdf>

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