

Executive Summary

The study, sponsored by UN Inter Agency Working Group on Decentralization (UNIAWG-D) undertakes a review and a critical analysis of the decentralization measures in an attempt to identify the hurdles in the way of empowerment of the urban local bodies (ULBs) and also the facilitating factors. It further assesses the implications of these in terms of perspective and priorities set by various UN agencies, operating in the urban sector. The study focuses on the constitutional and legal aspects of urban decentralization, relationship of urban local bodies with other agencies, fiscal and sectoral decentralization, accountability, local economic development, and the role currently being played by UN agencies in strengthening the process of decentralization in the country.

The analysis is based on a critical review of the policy documents, reports of various committees and commissions on urban governance, published and unpublished research studies brought out by institutions or individuals on the subject. Further, qualitative as well as statistical information on various aspects of urban governance has been analysed for 25 towns in the state of Tamil Nadu, two largest cities, Mumbai and Pune, in Maharashtra and the largest city in Gujarat, that is Ahmedabad. The reason for selecting the states and the cities are here the measures of decentralization are believed to have made a dent on the system of governance, which also has led to greater transparency in their functioning and data availability. The propositions or assertions made in different government reports and policy documents have been cross-checked with secondary data and by putting probing questions to officials and representatives of concerned agencies.

An overview of the developments in the decade after the passing of the 74th Constitutional Amendment Act (CAA), presented under different terms of reference reveals that the efforts to move towards decentralized urban governance has been at best fragmented and uncoordinated, largely due to absence of a broad macro framework. Despite most of the states passing the laws conforming to the Amendment Act, for

ensuring regularity of elections, representation, reservation etc. the process of empowerment of local bodies has been extremely uneven across states and cities. Further, transferring all the eighteen functions, enlisted in the 12th Schedule of the Amendment Act, has been an exception rather than the norm. It would, therefore, be unrealistic to expect any major improvement in the nature of planning and administration at the local level, as a consequence of CAA and linked changes at the state level. Importantly, the stipulation in the Act regarding creation of wards committees in cities having population over three hundred thousand has also been interpreted and incorporated in the administrative orders differently in different states, mostly to meet their political convenience.

It may be argued that given the openness of the economy of the cities, it is impossible for the ULBs to prepare a development plan without a regional perspective, proposed at a higher level such as region or district. Unfortunately, though most states have taken the steps to constitute the District Planning Committees (DPCs) not much information is available on their functioning. The situation is much less encouraging as far as the Metropolitan Planning Committees (MPCs) are concerned. In the absence of a larger perspective, provided by concerned authorities at the regional level, the ULBs have been forced to take decisions in an institutional vacuum. It can be argued that, barring exceptional cases, local bodies neither have the technical competence nor information base to take decisions with regard to location of industrial unit, its technology and production links. These do not have the capability to assess the long-term cost implications of the contractual arrangements, they are entering into with private companies, for the people or urban economy. There has been no effort on the part of the state government to create an information base or provide technical assistance to ULBs for assessing, for example, the long-term implications of land deals and helping the latter in enforcing appropriate environmental safeguards.

A critically important hurdle in decentralization, which has come in the way of innovative urban management practices are the well entrenched special purpose parastatal

agencies. Considerable (developmental) funds are still being routed through these agencies and the ULBs have little possibility to intervene in that process.

Another aspect, which has a critical bearing on the functioning of the local bodies but has not received attention of the state governments or the State Finance Commissions (SFCs) is the number and duration of the Standing Committees (SC), responsible for day-to-day decision making. Neither the 74th CAA nor the supporting legislations at the state level stipulate certain minimum number of such committees or their period of existence, that may be considered desirable for their effective functioning.

The most significant criticism of the decentralization model is that financial resources are being devolved without envisaging a perspective of urban development. It has been pointed out that the SFCs have taken up the issues of financial devolution without examining how the functions will be assigned to and carried out by local bodies and what will be their implications.

A review of the finances of the ULBs in the pre and post amendment period reveals that in a few of the states, improvement in the finances of the ULBs have been marginal, even at current prices. The per capita income have improved substantially for the developed states whereas the poorer states have registered either a decline or nominal increase, thereby increasing the inter state disparity. Given the difficult financial situation of local bodies, especially in the backward states, it is unlikely that they will be able to strengthen their planning departments by recruiting technical and professional personnel for taking up the challenge of development planning. Due to the functioning of the ULBs in an institutional vacuum, as noted above, the only choice for them has been to depend on financial intermediaries and credit rating agencies. However, imposition of stringent conditionalities by these agencies on the local bodies in determining their project priorities and even disbursal of their own budgetary resources raise more questions than provide answers, in the context of a policy of balanced regional development.

The policy makers both at the centre and state level are not very pleased about transferring powers and funds to local bodies as also the with their initiatives in generating revenue resources. Further, the local bodies or ward committees (within the cities) providing basic amenities, as per the paying capacity of the residents, in consonance with the new policy package, is likely to lead to lowering down the norms and standards of the services, compromising on their level and quality, thereby jeopardizing the health of the people.

With the introduction of the economic reforms and decentralised governance in the country, capital market borrowing, privatization, partnership arrangements and community-based projects have emerged as favoured options for undertaking infrastructural investments and provision of basic amenities. Planners and policy makers have, in recent years, made a strong case to make the para-statal agencies as also the local governments depend increasingly on their internal resources and institutional finance with the objective of “bringing in efficiency and accountability in their functioning”. Unfortunately, not many of the small and medium towns, particularly those located in backward states, have an economic base to levy taxes and generate resources internally. Also, much of the institutional funds and subsidised amenities, provided through the governmental programmes during seventies and early eighties, have gone to a few large cities, benefiting mostly the high and middle-income colonies. There is no way that these can continue in a more liberalised regime. However, there are distinct signals that withdrawal of government support and relegation of provision of the services to the market or sub-contracting arrangements with private companies, as envisaged under the new system, are resulting in accentuation of inequality across regions and size class of urban settlements.

Indeed, a few large cities, with reasonably strong economic base, have been able to mobilise additional resources using the “new opportunity”, opening up owing to the 74th CAA. A few of them have been able to introduce certain new taxes, increase the rates of the old ones and at the same time tap the capital market by floating the Structured Debt Obligations (SDOs) or through borrowings from international organisations. The small

and medium towns, on the other hand, that have a much higher percentage of households not having access to basic amenities, unfortunately have not been able to benefit from it in a similar fashion.

The community-based projects like Slum Networking Project in Ahmedabad (SNP) have earned unprecedented acclaim nationally and a few of these are cited as examples of best practices at international level. Unfortunately, these have been taken up only in a few cities that too restricted to a few localities. Their replicability at the national level has remained questionable, due to absence of organizational structure for community mobilization and non-commitment of supportive funds.

Recommendations

The financial position of most of the ULBs remains extremely poor even after CAA. They have not been able to get the Tenth and Eleventh Central Finance Commission grants since they require their matching contribution. Further, the inability to generate matching contribution has stood in the way of taking up many of the governmental schemes. As a result, the ULBs have laid emphasis on linking the functional domain of municipalities with their financial resources, insisting on broadening their tax base. In view of these problems, it is recommended that the key issue at the local level, under the decentralised regime, should be promotion of balanced development and increasing the coverage of basic amenities, besides ensuring higher efficiency in administration and greater cost recovery.

Large cities in the country have become financially vulnerable in recent years and are likely to be trapped into the problem of long-term debt servicing because of their tools of resource mobilisation. The states must ensure that the autonomy of the local bodies and their capacity to take up routine activities as also slum improvement and social development projects do not get compromised because of the conditionalities imposed by credit rating agencies and other financial intermediaries.

Growing dependence on private initiatives for provision of basic amenities, without a perspective of covering larger sections of population, is likely to enhance disparity in accessing basic amenities, even within large cities. The city governments, therefore, must monitor the trends in intra-city disparity, ensure that programmes are launched to increase the coverage of poor under basic amenities and make the trends in coverage public, at regular intervals. Also, the SFCs may recommend specific grants, tied to provision of services to poor and slum colonies.

Financial institutions like Housing and Urban Development Corporation of India (HUDCO), that have been set up with the explicit objective of promoting balanced urban development, must pursue their schemes to provide concessional funds for infrastructural investment in backward regions, particularly in small and medium towns and make larger sums available for the purpose. They should not go by the credit rating criteria, similar to those used in the capital market, for determining the viability of projects and should lay emphasis on meeting social objectives. It must design its lending policies with a view to achieve balanced urbanization and therefore, must seek viable ways of funding smaller ULBs, that have higher levels of income poverty and deprivation in terms of amenities. For shouldering this responsibility, they must get commensurate support from the central or state government.

At the city level, it would be important to ensure that the inequalities do not increase as a result of location of infrastructural projects or contractual agreements for service delivery with private sector. Specific clause must be built in the new capital projects and contractual agreements with private agencies (that are entering the field of basic amenities), so that the coverage of unserved households is increased. Central and state government schemes must be designed for slums and poor colonies with an explicit subsidy component, for implementation within a participatory framework. The scope and coverage of SNP or similar projects need to be increased to gradually cover larger segments of unserved urban population.

A Regulatory Authority may be set up at the state level to overview private sector/ partnership projects involving sale or leasing out of land or municipal assets on a long term basis.

Implications in terms of Actions and Priorities of concerned UN Agencies

For the success of decentralization in promoting balanced development in the country, interventions are essential from all stakeholders, namely, the local councillors, the electorate, the non-governmental organisations (NGOs), community based organisations (CBOs), different tiers of the government, financial institutions and the international agencies. Emphasis should be laid on bottom-up planning, decentralized decision-making, participatory appraisal and timely release of funds among others. Capacity building among officials, non-officials and community leaders, complemented by transparent decision-making and accessible information system, would contribute to greater awareness and participatory environment at local level. An effective communication strategy is vital for all community-oriented programs. Dissemination of best practices and sharing of success stories, including the reasons for success and failure, together with incentives and disincentives, are likely to motivate the functionaries and communities and instill confidence in them, leading to their active participation and effective program implementation.

In order to make urban decentralization a success, municipal reforms should focus on the following aspects:

- Capacity building of urban local bodies, specially in the smaller and medium towns;
- Standardization and computerization of municipal accounts;
- Delinking local initiatives from political motives through involvement of community;
- Unbundling of services especially for small towns should be taken up;

- Raising the general rates of tariff to a level that a small surplus is generated to cross subsidize programmes in slum colonies, besides meeting their operation and maintenance costs;
- Relaxation in conditionalities of various international and national level financial-cum-development agencies in view of the special situation of small and medium towns and also slum colonies within large cities, while financing infrastructural projects.

The relaxation of old regulatory/ supervisory arrangements and controls of public agencies to facilitate ULBs enter into contractual agreements with private or joint sector companies, is a move in desired direction. However, even under the old system of state control, the public agencies in the city had failed in meeting the social obligations and catering to the needs of the poor. Designing and implementing the regulatory controls over the private companies in a liberalised regime would, therefore, be a challenging task. This would require significant institutional restructuring. In doing this, the local bodies, must explicitly recognize the provision of basic services to slum and poor population as one of their major responsibility. This ought to be explicitly mentioned and penal provisions for failing to meet this obligation needs to be incorporated, while drawing up contracts or agreements with private companies for providing water or solid waste facilities. The would have to be done despite a few of the private companies becoming lukewarm about these subcontracting arrangements because of the incorporation of social clauses, bringing down their short term profitability. This has indeed happened in both water supply and solid waste management, as a number of private companies have withdrawn themselves from these sectors during the past couple of years. They are coming up only for O&M jobs, instead of making capital investment for development of the facilities, as was the case in the nineties.

To facilitate ULBs enter into contractual agreements with private or joint sector companies, the old regulatory/ supervisory arrangements and controls of public agencies are being relaxed. However, even under the old system of state control, the public agencies in the city had failed in meeting the social obligations and catering to the needs

of the poor. Designing and implementing the regulatory controls over the private companies in a liberalised regime would, therefore, be far more challenging. This would require significant institutional restructuring. In doing this, the local bodies, must give weightage to the objective of increasing the coverage of slum population. This ought to be explicitly mentioned with penal provisions, while drawing up contracts or agreements with private companies for providing water or solid waste management. The private companies, on the other hand, may become lukewarm about these subcontracting arrangements because of the incorporation of social clauses, bringing down their profitability.