

Impact of the Constitution (74th) Amendment Act on the Urban Local Bodies: A Review

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Abstract

The Constitution (74th) Amendment Act, 1992 on Municipalities is a path breaking effort in achieving democratic (CAA) decentralization in India. In addition to ensuring constitutional validity to urban local bodies (ULBs), this legislation also aims at broadening the range of powers and functions of municipal governments. This paper is an attempt to review the implementation status of selected mandatory discretionary provision of the CAA. Paper has thrown light on the performance of different states on the compliance/implementation of the Act provisions.

¹ This research paper is based on a recent study conducted by NIUA on the Impact of 74th Amendment Act on the Working of Urban Local Bodies, sponsored by the Ministry of Urban Development, Government of India., 2005

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INTRODUCTION

Urban local bodies (ULBs)/municipalities play an important role in the planning and development of urban areas. However, most studies undertaken to assess the functioning of municipalities in India point out that the performance of municipalities in the discharge of their duties has continued to deteriorate over time. It is noted that municipalities in India are confronted with a number of problems, such as inefficiency in the conduct of business, ineffective participation by the weaker sections of the population in local governance, weak financial condition, lack of transparency in the planning and implementation of projects, etc., which affect their performance adversely.

An important initiative of the Government of India to strengthen municipal governance is the enactment of the Constitution (74th Amendment) Act (CAA) in 1992. Until the recent amendment, local governments in India were organised on the basis of the '*ultra vires*' principle [beyond the powers or authority granted by law] and the state governments were free to extend or control the functional sphere through executive decisions without an amendment to the legislative provisions. Through this initiative, an attempt is being made to improve the performance ability of municipalities, so that they are able to discharge their duties efficiently.

With the enactment of the Act, the municipalities have acquired constitutional status for the first time in the history of local governments. The important provisions specified in the Act include constitution of three types of municipalities, devolution of greater functional responsibilities and financial powers to municipalities, adequate representation of weaker sections and women in municipalities, regular and fair conduct of municipal elections, and constitution of Wards Committees, District Planning Committees, Metropolitan Planning Committees and State Finance Commissions.

The Constitution (74th Amendment) Act, 1992 provisions, thus, provide a basis for the State Legislatures to guide the State Governments 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.

Interestingly, a review of literature reveals that till date a systematic attempt to assess the impact of the 74th Amendment Act provisions on the working of municipalities has not been made at the all-India level. The literature review further shows that piece-meal studies have been undertaken on the subject after the enactment of the Act. It is also learnt that the municipalities are confronted with a number of problems, despite the amendments in the State Municipal Acts and the implementation of the 74th CAA provisions. For instance, in several States, there exists a problem of ineffective participation in the decision-making

process despite adoption of the policy of reservation, delays in the transfer of funds to the municipalities despite constitution of State Finance Commissions, poor recovery from various tax and non-tax sources despite devolution of powers, etc. It is further learnt that there is an influence of various social, economic and political factors on the functioning of municipalities in India. Considering these local-level issues of governance as relevant, it is essential to examine the impact of the Constitution (74th Amendment) Act in different states of India.

OBJECTIVE AND SCOPE OF THIS PAPER

In this paper an attempt has been made to describe the impact of the 74th CAA in respect of the following broad areas :

- i. Number of urban local bodies (ULBs) in each State;
- ii. Number of councillors, number of women councillors, number of councillors belonging to Scheduled Caste (SC), Scheduled Tribe (ST), Backward Classes (BC);
- iii. Number of SC/ST chairpersons;
- iv. Elections to municipalities;
- v. Functioning of wards committees; their composition and functions;
- vi. Constitution and functioning of the State Finance Commissions (SFCs);
- vii. Functioning of District Planning Committees (DPCs) and Metropolitan Planning Committees (MPCs) along with their functions and composition;
- viii. Areas for further reforms and improvement.

The impact of the 74th CAA is assessed for a total of twenty-seven States and one Union Territory (UT) of India. The required information for the study has been collected both through discussions with the identified group of respondents and from secondary sources. The State Urban Development Department and the State Directorate of Local Bodies are the two main sources of information. Other secondary sources of information are the State Municipal Acts, State Finance Commission Reports, Action Taken Reports, and the state government notifications issued from time to time in respect of the provisions of the 74th CAA.

IMPACT OF THE CONSTITUTION (74th AMENDMENT) ACT PROVISIONS

This section contains information on the impact of selected provisions of the Constitution (74th Amendment) Act. The main findings emerging from an analysis of data are presented below.

Number of Urban Local Bodies in each State

Table 1 given below provides state-wise information on the number of urban local bodies (ULBs) according to their civic status as on October 2004.

The data show that there are a total of 2850 ULBs in the 27 states and one UT of India. Uttar Pradesh has the highest number of ULBs, i.e., 628, which is followed by Maharashtra (247), Karnataka (222), etc. The total number of Municipal Corporations, Municipal Councils and Nagar Panchayats is 117, 1513 and 1220 respectively. Maharashtra has the highest number of corporations, i.e., 22, which is followed by Madhya Pradesh and Uttar Pradesh. Data on municipal councils show that their numbers are high in Maharashtra, Uttar Pradesh,

Tamil Nadu, Gujarat, Karnataka, West Bengal and Andhra Pradesh. The number of nagar panchayats is high in Uttar Pradesh and Rajasthan.

The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India. Hence, parts of Meghalaya, Mizoram and Nagaland, have been kept outside the purview of the said Act. It is, however, noted that in these states, traditional municipal institutions (such as municipal board, notified area committee, etc.) are functioning for the governance of urban areas.

Table 1: State-wise Data on Number of Urban Local Bodies in India (as on October 2004)

S. No.	Name of State/UT	Number of Urban Local Bodies			
		Municipal Corporation	Municipal Council	Nagar Panchayat	Total
1	Andhra Pradesh	8	108	1	117
2	Arunachal Pradesh #				
3	Assam	1	29	55	85
4	Bihar	5	32	80	117
5	Chhatisgarh	10	28	72	110
6	Delhi	1	1	0	2
7	Goa	1	12	0	13
8	Gujarat	6	143	0	149
9	Haryana	1	24	43	68
10	Himachal Pradesh	1	20	28	49
11	Jharkhand	1	20	22	43
12	Karnataka	6	123	93	222
13	Kerala	5	53	0	58
14	Madhya Pradesh	14	48	48	110
15	Maharashtra	22	225	0	247
16	Manipur	0	7	20	27
17	Meghalaya @				
18	Mizoram @				
19	Nagaland @	0	3	16	19
20	Orissa	2	35	66	103
21	Punjab	5	97	31	133
22	Rajasthan	3	11	169	183
23	Sikkim	0	0	8	8
24	Tamil Nadu	6	151	0	157
25	Tripura	0	1	12	13
26	Uttaranchal	1	31	31	63
27	Uttar Pradesh	12	194	422	628
28	West Bengal	6	117	3	126
Total		117	1513	1220	2850

Notes:

- # - There are no municipalities in Arunachal Pradesh.
- @ - The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India.
- Blank spaces in the table indicate that data are not available.
- Status of information provided in the table is based on data collected over a period of time and may therefore not tally with the latest position in the different states of the country.

Number of Councillors, Number of Women Councillors, Number of Councillors belonging to SC/ST/BC Category

State-wise data/information on number of councillors by gender and category are given in Table 2. It may be mentioned that detailed break-up of such data is difficult to obtain due to

weak database at the state-level. It may be noted from the table that data on all states as well as desegregated data are not available. The data on SC, ST and BC given in the table are a combined figure, which include both males and females.

It is obvious that the number of councillors, women councillors, and councillors belonging to SC, ST, and BC category in the three types of ULBs is high in the larger states of the country. The data confirm the fact that the weaker sections of the society have been associated with the ULBs.

Table 2: State-wise Data on Number of Councillors, Number of Women Councillors, Number of Councillors Belonging to SC/ST/BC Category (as on October 2004)

S. No.	Name of State/UT	Number of Councillors														
		Municipal Corporation					Municipal Council					Nagar Panchayat				
		Total	Female	SC	ST	BC	Total	Female	SC	ST	BC	Total	Female	SC	ST	BC
1	Andhra Pradesh	399	139	40	7	133	3104	1060	323	115	1045	21	7	2	1	7
2	Arunachal Pradesh #															
3	Assam	57	20													
4	Bihar	280	70	25	0	0	1156	292	112	2	0	1545	413	223	0	0
5	Chhatisgarh															
6	Delhi	134	37	25												
7	Goa															
8	Gujarat															
9	Haryana	25	8	2	0	2	656	231	55	0	48	601	219	71	0	86
10	Himachal Pradesh	24	8	3	0	15	201	68	16	0	0	204	60	19	0	0
11	Jharkhand															
12	Karnataka	410	147	42	5	136	3275	1222	398	69	1111	1390	573	183	49	473
13	Kerala	298	100	17	0	0	1597	550	124	2	0					
14	Madhya Pradesh	724					2040					3540				
15	Maharashtra	2064	693	219	57	556	5189	1750	624	220	1434					
16	Manipur															
17	Meghalaya @															
18	Mizoram @															
19	Nagaland @															
20	Orissa															
21	Punjab	290	97	55	0	10	1591	609	414	0	97	385	150	105	0	31
22	Rajasthan															
23	Sikkim															
24	Tamil Nadu	474	159	51	0	0	4358	1453	537	3	0					
25	Tripura						16	6	2	1	0	114	39	15	7	0
26	Uttaranchal	46	18				397	144				190	82			
27	Uttar Pradesh	865	291	114	0	182	4833	1734	571	0	1144	4823	1802	719	0	1029
28	West Bengal	364	123	33	3	0	2414	845	400	25	0					

Notes:1. # - There are no municipalities in Arunachal Pradesh.

2. @ - The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India.

3. Blank spaces in the table indicate that data are not available.

4. Status of information provided in the table is based on data collected over a period of time and may therefore not tally with the latest position in the different states of the country.

Number of SC/ST Chairpersons

State-wise data/information on number of SC/ST chairpersons are given in Table 3. It may be mentioned that such data are available for only 9 states of the country. The data show that their numbers are high in the southern states of Tamil Nadu and Karnataka. It is also

noted that in all states, the number of SC chairpersons is high as compared to the ST chairpersons.

Table 3: State-wise Data on Number of SC/ST Chairpersons (as on October 2004)

S. No.	Name of State/UT	Number of Chairpersons		
		Scheduled Castes	Scheduled Tribes	Total (SC and ST)
1	Andhra Pradesh	11	2	13
2	Arunachal Pradesh #			
3	Assam			
4	Bihar			
5	Chhatisgarh			
6	Delhi			
7	Goa			
8	Gujarat			
9	Haryana	13	0	13
10	Himachal Pradesh			10*
11	Jharkhand			
12	Karnataka	34	6	40
13	Kerala	4	0	4
14	Madhya Pradesh			
15	Maharashtra			
16	Manipur			
17	Meghalaya @			
18	Mizoram @			
19	Nagaland @			
20	Orissa	16	8	24
21	Punjab	9	0	9
22	Rajasthan			
23	Sikkim			
24	Tamil Nadu	108	5	113
25	Tripura	2	1	3
26	Uttaranchal	3	0	3**
27	Uttar Pradesh			
28	West Bengal			

Notes:

- # - There are no municipalities in Arunachal Pradesh.
- @ - The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India.
- Blank spaces in the table indicate that data are not available.
- * - SC/ST break-up not available for Himachal Pradesh.
- ** - Data on Uttaranchal shows status of SC chairpersons only for municipal councils.
- Status of information provided in the table is based on data collected over a period of time and may therefore not tally with the latest position in the different states of the country.

Elections to Municipalities

State-wise data on elections to municipalities are given in Table 4. It is noted that except the states of Chhatisgarh and Jharkhand, elections to municipalities in the other states are being held regularly. In the case of some large states (such as Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Rajasthan, etc.), it is observed that the elections are held in stages due to a large number of ULBs.

Table 4: Elections to Municipalities in India (as on October 2004)

S. No.	Name of State/UT	Year in which last elections held
1	Andhra Pradesh	2000
2	Arunachal Pradesh #	
3	Assam	2003-4
4	Bihar	2002
5	Chhatisgarh	Not held
6	Delhi	
7	Goa	
8	Gujarat	1999-2001
9	Haryana	
10	Himachal Pradesh	
11	Jharkhand	1989-90
12	Karnataka	2001-2
13	Kerala	2000
14	Madhya Pradesh	1999-2004
15	Maharashtra	2000-1
16	Manipur	
17	Meghalaya @	
18	Mizoram @	
19	Nagaland @	
20	Orissa	2003
21	Punjab	
22	Rajasthan	2004-5
23	Sikkim	
24	Tamil Nadu	2001
25	Tripura	2000
26	Uttaranchal	2003
27	Uttar Pradesh	2000
28	West Bengal	2004

Notes:

1. # - There are no municipalities in Arunachal Pradesh.
2. @ - The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India.
3. Blank spaces in the table indicate that data are not available.
4. Status of information provided in the table is based on data collected over a period of time and may therefore not tally with the latest position in the different states of the country.

Functioning of Wards Committees

State-wise information on the number, composition and functions of wards committees (WCs) is given in Table 5. The data show that WCs have been constituted in a total of 9 states of India. These include Andhra Pradesh, Chhatisgarh, Delhi, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Tamil Nadu and West Bengal.

Generally, members of WCs comprise the elected ward representatives (i.e., councillors) and nominated members. In the states of Karnataka, Kerala, and Maharashtra, a higher level of participation is observed, where members of NGOs, CBOs, neighbourhood groups, heads of educational institutions, persons from agriculture, industry, health, trade unions, etc., have also been associated. On the other hand, the deputy commissioner is the head of the executive wing of the WCs.

WCs have been assigned several responsibilities, such as maintenance of civic services, revenue collection/assistance in tax collection, drafting of annual budget, slum improvement, public grievances, formulation and execution of development schemes, monitoring the implementation of development programmes, recommendations on proposals regarding estimates of expenditure, granting approval and financial sanction to plans and municipal works, scrutiny of monthly progress report, etc.

Some information is available on the functioning of wards committees in different states of India. It is learnt that in the southern states, they are functional in Tamil Nadu and in Kerala. In Andhra Pradesh and Karnataka, they are practically not functional except in Hyderabad and in Bangalore municipal corporations. In the case of Bangalore, it is further learnt that they are neither meeting regularly, nor working effectively. It may be stated that Kerala is a unique example, where WCs have been constituted in every ward and in towns with a population of more than a lakh. In the case of Chhatisgarh, it is learnt that although WCs have been constituted in Raipur Municipal Corporation, no responsibilities have been assigned to them and no budgetary allocation is being given. In fact, they are completely non-functional.

**Table 5: State-wise Information on Functioning of Ward (s) Committees in India
(as on October 2004)**

S. No.	Name of State/UT	Number of WCs	Composition of WCs	Functions of WCs
1	Andhra Pradesh	15	Councilors	Maintenance of civic services, revenue collection, drafting of annual budget, etc.
2	Arunachal Pradesh #			
3	Assam	0		
4	Bihar	0		
5	Chhatisgarh	✓		
6	Delhi	12	Councilors, nominated members	
7	Goa	0		
8	Gujarat	0		
9	Haryana	0		
10	Himachal Pradesh	0		
11	Jharkhand	0		
12	Karnataka	35	Councilors, nominated members, members of NGOs/CBOs	Maintenance of civic services, slum improvement, public grievances, maintenance of statistics, etc.
13	Kerala	One for each ward	Councilors, nominated members, members of resident organizations, neighbourhood groups, heads of educational institutions, persons from agriculture, industry, NGOs, health institutions, trade unions	Formulation of development schemes, assistance in tax collection, monitoring implementation of development programmes, etc.
14	Madhya Pradesh	41	Councilors, nominated members	Maintenance of civic services, collection of taxes, execution of schemes, etc.
15	Maharashtra	51	Councilors, nominated members, members of NGOs/CBOs	Citizen grievances, recommendations on proposals regarding estimates of expenditure, grant approval and financial sanction to plans, etc.
16	Manipur			
17	Meghalaya @			

18	Mizoram @			
19	Nagaland @			
20	Orissa			
21	Punjab	0		
22	Rajasthan	0		
23	Sikkim			
24	Tamil Nadu	14	Councilors, nominated members	Sanction of municipal works, scrutinize monthly progress reports, etc.
25	Tripura	0		
26	Uttaranchal	0		
27	Uttar Pradesh			
28	West Bengal	One for each ward (2588)	Councilors, nominated members	Supervision and monitoring of civic works, planning, execution of development schemes

Notes:

1. # - There are no municipalities in Arunachal Pradesh.
2. @ - The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India.
3. Blank spaces in the table indicate that data are not available.
4. Status of information provided in the table is based on data collected over a period of time and may therefore not tally with the latest position in the different states of the country.

Constitution and Functioning of State Finance Commissions

State-wise information on the status of state finance commissions is given in Table 6.

The finance commissions constituted in various states of India have attempted a detailed review of the financial position of ULBs. The findings on the local-level issues of governance (including those related to financial aspects) and recommendations to overcome the prevailing constraints confronting ULBs have been documented in the reports prepared by the SFCs of most states.

Information given in the table shows that most of the first SFCs were constituted during the period 1994-95. It is further observed that in the states of Jammu and Kashmir and Arunachal Pradesh, the first SFC was constituted in the year 2001 and 2003 respectively. In the newly formed states of Chhatisgarh, Jharkhand and Uttaranchal, the first SFCs were constituted during 2003, 2004 and 2001 respectively. Insofar as the submission of first SFC reports is concerned, it may be stated that in the states of Punjab, Rajasthan and West Bengal, the report was submitted in the year 1995. Although, most reports were submitted during the period 1996-99. Bihar is an exception, where the report could not be submitted due to various reasons.

Information on the status of second SFCs is also shown in the table. It is noted that the state governments of Andhra Pradesh and Himachal Pradesh were the first to constitute the second SFC in the year 1998. In other states, the second SFCs were constituted during the period 1999-2004. It is also observed that in the states of Arunachal Pradesh, Chhatisgarh, Jammu and Kashmir, Jharkhand and Uttaranchal, the second SFC has not been constituted due to the fact that the period of the first SFC is not yet complete. Regarding the status of second SFC reports, it is learnt that most reports were submitted during the period 2001-2002. There are, however, a number of states where the second reports are in the process of being approved by the state government. States falling in this category include Assam, Goa, Gujarat, Haryana, Maharashtra, and Orissa.

The actions taken by the state authorities on the SFC recommendations have been documented in the action taken reports (ATRs). A review of available information on the

status of ATRs reveals that in respect of the first SFC reports, the ATRs have been submitted and approved by the state government/legislature in almost all states. Regarding the status of ATRs with respect to the second SFC reports, it is observed that these reports have been submitted and approved only in a few states.

Table 6: State-wise Information on Status of State Finance Commissions in India (as on October 2004)

S. No.	States/ Union Territories	First SFC		Second SFC		Status of Action Taken Reports	
		Date of Constitution	Date of Submission of Report	Date of Constitution	Date of Submission of Report	First	Second
1	Andhra Pradesh	22.6.1994	31.5.1997	8.12.1998	19.8.2002	Submitted	Submitted
2	Arunachal Pradesh #	21.5.2003	I.N.A.	Due in 2008	N.A.	I.N.A.	N.A.
3	Assam	23.6.1995	29.2.1996	Constituted	U.C.	Submitted	N.A.
4	Bihar	23.4.1994	Not submitted @	June 1999	Jan. 2003* (Interim Rep.)	N.A.	I.N.A.
5	Chhatisgarh	22.8.2003	I.N.A.	Due in 2008	N.A.	I.N.A.	N.A.
6	Goa	1.4.1999	5.6.1999	I.N.A.	U.C.	Submitted	N.A.
7	Gujarat	15.9.1994	.10.1998 *	Constituted	U.C.	Submitted	N.A.
8	Haryana	31.5.1994	31.3.1997	6.9.2000	U.C.	Submitted	N.A.
9	Himachal Pradesh	23.4.1994	.11.1996	25.5.1998	24.10.2002*	Submitted	Submitted
10	Jammu & Kashmir	24.4.2001	I.N.A.	Due in 2005	I.N.A.	I.N.A.	I.N.A.
11	Jharkhand	28.1.2004	I.N.A.	Due in 2005	I.N.A.	I.N.A.	I.N.A.
12	Karnataka	10.6.1994	.1.1996 *	25.10.2000	23.12.2002	Submitted	I.N.A.
13	Kerala	23.4.1994	29.2.1996	23.6.1999	8.1.2001	Submitted	I.N.A.
14	Madhya Pradesh	17.6.1994	.6.1996 *	17.6.1999	22.7.2003 *	Submitted	Submitted
15	Maharashtra	23.4.1994	31.1.1997	22.6.1999	U.C.	Submitted	N.A.
16	Manipur	22.4.1994	.12.1996	Constituted	I.N.A.	Submitted	I.N.A.
17	Meghalaya	74 th Amendment Act Provisions are not applicable to these States under Article 243-ZC and Article 243-M (2) of the Constitution					
18	Mizoram						
19	Nagaland						
20	Orissa	21.11.1996	31.12.1998	5.6.2003	U.C.	Submitted	N.A.
21	Punjab	22.4.1994	31.12.1995	21.9.2000	.2.2002	Submitted	Submitted
22	Rajasthan	23.4.1994	31.12.1995	7.5.1999	29.8.2001	Submitted	Submitted
23	Sikkim	22.7.1998	16.8.1999	Constituted	I.N.A.	Submitted	I.N.A.
24	Tamil Nadu	23.4.1994	.11.1996	1.12.1999	.5.2001	Submitted	Submitted
25	Tripura	23.4.1994	17.9.1999 *	29.10.1999	I.N.A.	Submitted	I.N.A.
26	Uttaranchal	31.3.2001	29.6.2002	Due in 2006	N.A.	Submitted	N.A.
27	Uttar Pradesh	22.10.1994	26.12.1996	25.2.2000	.6.2002	Submitted	Submitted
28	West Bengal	30.5.1994	27.11.1995	14.7.2000	6.2.2002	Submitted	U.C.

Union Territories							
1	Andaman & Nicobar Islands \$	20.9.1995	.8.1998	28.8.2001	31.5.2002	Submitted	I.N.A.
2	Chandigarh	.5.1995	I.N.A.	9.1.2001	I.N.A.	I.N.A.	I.N.A.
3	Dadra & Nagar Haveli #, \$	8.9.1995	.8.1998	.12.2001	31.5.2002	Submitted	I.N.A.
4	Daman & Diu \$	8.9.1995	.8.1998	.12.2001	31.5.2002	Submitted	I.N.A.
5	Delhi	3.4.1995	.12.1997	9.1.2001	.4.2002	Submitted	Submitted
6	Lakshadweep #, \$	8.9.1995	.8.1998	.12.2001	31.5.2002	Submitted	I.N.A.
7	Pondicherry ^	12.3.1997	15.9.1997	5.1.2004	I.N.A.	Submitted	I.N.A.

Source: Data collected from the SFC reports of different States/UTs; MUD & CFC database; Field visits.

Notes: (i) # : There are no municipalities in the State/UT.

(ii) \$: One single report contains information on the four UTs of Andaman & Nicobar Islands, Dadra & Nagar Haveli, Daman & Diu and Lakshadweep.

(iii) * : Report relates to municipalities only.

(iv) @ : The Interim Report of SFC (Bihar) submitted in January 2003 points out that the first SFC Report could not be submitted due to various reasons.

(v) U.C. – Under consideration; I.N.A. – Information Not Available; N.A. – Not Applicable.

(vi) ^ : As per Government order, the Commission has submitted 6 six monthly reports containing its recommendations to the Government.

A review of available information reveals that actions are being taken in a number of states on the SFC recommendations. The state governments have accepted most of the recommendations fully, partly or in a modified form. There are, however, a few recommendations which have either not been accepted or are under consideration. The decision to accept or reject a recommendation lies with the state government and is based on a number of factors, such as the financial condition of the state/local government, priority areas of concern, etc. The number of accepted recommendations is high in the states of Haryana, Himachal Pradesh, Tamil Nadu and Uttar Pradesh, and moderate in Andhra Pradesh, Goa, Gujarat, Kerala, Rajasthan, Delhi and Pondicherry. In the following sub-sections information is provided on the implementation status of key recommendations put forward by the different SFCs.

Revenue Sharing between State and Municipalities

The recommendation on 'Sharing of State Revenues' has been accepted by the State Governments of Andhra Pradesh, Punjab, Rajasthan, Tamil Nadu, Uttar Pradesh, West Bengal and Delhi. However, it is learnt that the recommended share has been either partly devolved or is yet to be devolved. This is true in the case of Andhra Pradesh, Punjab and West Bengal. In Tamil Nadu, the State Government has frozen the percentage for all the 5 years owing to resource crunch. In Goa and Kerala, this recommendation has not been accepted due to the fact that the States' own tax resource base is under pressure.

Criteria for Distribution of Funds between Municipalities

It is noted that the criteria identified and weightages assigned by the Finance Commission of various states have been accepted fully by the state governments of Rajasthan, Tamil Nadu and Uttar Pradesh. In Andhra Pradesh, these have been accepted with modification, where a marginal change in weightage and parameters has been recommended. In Goa, these have been accepted partly and it is suggested that more weightage should be given to backwardness criterion as compared to population. Information on the status of

implementation shows that in Rajasthan, funds are being distributed among ULBs as per the recommended criteria and weightages.

Taxes, Non-taxes, Assigned Revenues and Compensations

It is noted that the state governments have generally accepted recommendations on property tax. In Kerala, necessary revisions have been made in the Municipal Act regarding revision of tax every four years. In Punjab, provisions have been made in Punjab Municipal Bill, 1999 to de-link property tax. However, no decision has been taken by the government to compensate ULBs for loss of revenue due to exemptions granted by the state government. In Rajasthan, simplification of assessment procedure is in process. In Andhra Pradesh, it is suggested that loss in revenue to ULBs from property tax exempted properties may be compensated by a corresponding increase in grant-in-aid and not by enhancing the amount of compensation by the state government. Further, it is mentioned that a review of exempted properties should be undertaken to limit only non-profitable and charitable institutions.

The recommendations in respect of profession tax have been accepted in the case of most states on which information is available. In Kerala, the suggestion on a reduction in the number of slabs and the rationalization of rates has been accepted, however, new slabs have not been notified for ULBs. In Punjab, tax on professions, individuals, traders, commission agents and shopkeepers, has still not been levied. Moreover, the power to fix rates of local taxes continues to remain with the state government. In Pondicherry, action is being taken to amend the local bodies Act with respect to increasing the maximum limit of profession tax. Andhra Pradesh is the only state where the recommendation of transferring a higher share of profession tax from state government to local bodies has not been accepted. This is due to the reason that grant-in-aid is already recommended for carrying out infrastructure development. However, recommendations on criteria for allocation of profession tax to ULBs and the collection of this tax from small traders, employees of certain establishments (such as TB Sanatorium, etc.) have been accepted by the state government of Andhra Pradesh.

Recommendations on entertainment tax have been either accepted fully or with minor modifications. For instance, in Haryana, instead of the recommended 50 per cent, only 25 per cent of net proceeds are accepted for transfer to the ULBs. Further, it is noted that this recommendation has been implemented in the state. In Kerala, the recommendation on merging entertainment tax and additional entertainment tax has been accepted and implemented. In Tamil Nadu, the recommendations on transfer of benefits from entertainment tax and assignment of 90 per cent of total realizations of this compounded tax to local bodies have been accepted. West Bengal government has accepted to hand over this tax (collected by state) to local bodies however no action has been taken. It is learnt that though almost the entire amount of fund collected on this account is being given to local bodies, this tax has neither been assigned to them, nor they have been given any discretionary powers for fixing the rates. The main reason for this is that the state government already had elaborate machinery for collection of this tax, which would become redundant. Hence, it is suggested that the arrangement of sharing of this tax should be continued.

Suggestions on user charges have been accepted in the states of Kerala, Punjab, and Uttar Pradesh. In Punjab, action is being taken to provide metered water supply and to revise water rates and sewer charges. It is also noted that privatisation in the operation of water supply has been partially introduced in some ULBs. However, no decision has been taken

on linking of water rate with power tariff. In Uttar Pradesh, the urban development department has taken steps to revise water rates.

Grants-in-aid to Municipalities

In Andhra Pradesh, the suggestion to increase the per capita grant to ULBs has been accepted in view of the increasing costs of materials required for undertaking development activities. The recommendation to sanction additional grant for newly constituted municipalities has been accepted, however, no action has been taken. In the case of corporations, it is rejected since the same is not considered as an area of priority concern. Release of grants based on performance of ULBs is accepted, however, the matter is under consideration. In Gujarat, it is suggested that grants-in-aid given for motor vehicle tax should be discontinued. This recommendation has been accepted and it is mentioned that the powers will be delegated to ULBs for imposing a lifetime tax on vehicles in consultation with the Transport Department. Some suggestions which have not been accepted relate to: transfer of a proportion of conversion tax to ULBs; continuance of the existing practice of land revenue recovery from agricultural land; and increase in the rate of local cess and irrigation cess.

In Haryana, the recommendation on transfer of tenth/eleventh finance commission grants has been accepted, but the grant has been partly released. In Himachal Pradesh, the recommendation on transfer of grants in lieu of octroi has been accepted with modification and it is suggested that there should be a source transfer by clubbing octroi grant. In Kerala, the recommendation on giving rights to local bodies to decide on the application of non-plan grants according to their own priority and needs has been accepted and implemented. However, suggestions on non-statutory non-plan grants and on maintenance grant have not been accepted. In respect of the former, it is mentioned that the state government is already meeting the establishment expenditure regarding the staff transferred to local bodies. In the case of the latter, it is stated that the financial condition of the state government does not allow for this change. In Punjab, the recommendation on providing financial assistance (by way of per capita grants-in-aid) to weak ULBs has been accepted, but such grants have not been given to them. In Rajasthan, most recommendations on grants to ULBs have been accepted. Further, information on implementation status shows that the state government has already issued orders and the amount is being distributed. In Uttar Pradesh, the recommendation on the criteria for distribution of the tenth finance commission grant has been accepted. In Pondicherry, recommendations on a lump sum compensation grant (due to non-revision of property tax rates) and payment of compensatory grant to local bodies (due to abolition of tolls and vehicle tax on motor vehicles) have not been accepted.

Other Measures to Improve the Financial Condition of Municipalities

In Andhra Pradesh, certain internal and external measures are recommended. An interesting observation is that the suggestion on preventing the government from taking decisions on matters related to taxation has been accepted. In Goa, the state government has accepted that local bodies should make an effort towards additional resource mobilization in order to increase the level of basic services and pace of development. In Gujarat, most recommendations falling in this category have been accepted. Some of these are concerned with: depositing a proportion of tax by ULBs for improving basic facilities; transfer of a proportion of funds to local bodies by the District Planning Boards and the criteria for distribution among each type of local body; control over the borrowing powers of ULBs and a periodic review of outstanding dues; rebate on interest to ULBs repaying loan on time; increase in per capita grant (10th Finance Commission) to local bodies due to

increase in population; and review of tax demand by relevant authorities. In Haryana, the waiver of outstanding amount against ULBs has been accepted and implemented. In Himachal Pradesh, the recommendation on raising resources by ULBs, which are exclusively their responsibility, has been accepted, but the local bodies have not shown adequate sincerity towards resource mobilization. Regarding the fixation of rates in respect of taxes and levies, the state government has notified the limits of rates. Further, steps have been taken to decentralize fiscal powers and to give more autonomy to ULBs for collection and levy of taxes, however, it is learnt that some ULBs are still resisting from imposition of house tax. In respect of loans, the state government has given permission to ULBs to negotiate for loans.

In Kerala, the proposal on making central government properties liable for property/building tax has been rejected by the eleventh Finance Commission. Other recommendations related to: replacement of the policy of fixed rates; fixation of minimum rates; distribution of central finance commission grant to ULBs on a per capita basis; creation of an urban pool, etc., have been accepted. Information on the status of implementation shows that in respect of some items mentioned above: rules and byelaws are yet to be issued; and only a rural pool has been created. In Rajasthan, recommendations have been made on: development of a system for mid-term appraisal of municipal finance; levy of taxes on those sectors (namely markets, health institutions, restaurants, other commercial and industrial establishments) which strain municipal services; revision of rates of fines; penalties, charges, fees, etc., by state government and ULBs; review of revenue efforts of most ULBs; and maintenance of accounts and audit of ULBs. The state government has accepted these recommendations.

In Tamil Nadu, the suggestion on creation of an equalization fund and an incentive fund has been accepted. Accepted recommendations on strengthening municipal finances in Uttar Pradesh include: initiation of a special drive by ULBs for recovery of dues and ensuring liquidation of their outstanding liabilities; conversion of loans in respect of certain schemes into grants; common format for budget estimates; assigning responsibility of audit of accounts of ULBs to the Accountant General; release of funds to ULBs on the basis of their performance; and amendments in Municipal Acts in order to enable ULBs to levy various taxes. The recommendation on setting up of a corporation for leveraging funds and subsidizing interest rate on non-remunerative schemes has not been accepted. In Delhi, the government has accepted recommendations on: additional resource mobilization by ULBs (i.e., MCD and NDMC); and consolidation of MCD loan into a single loan of 20-year duration. However, the suggestion to monitor the utilization of fund provided for operation and maintenance expenditure of existing assets of MCD has not been accepted.

Other Recommendations for Strengthening Municipal Governance

The Finance Commissions of Andhra Pradesh, Gujarat, Orissa, Rajasthan, Tamil Nadu, Uttaranchal and Uttar Pradesh have given importance to devolution of functions, functionaries and powers along with a transfer of funds. In Andhra Pradesh, the state Government has accepted the recommendation, but it is pointed out that this cannot be implemented immediately, since the quantum of financial devolution has to be examined carefully in relation to the delegation of functions. In the SFC Report of Rajasthan, it is mentioned that the recommendation has been accepted and implemented.

Emphasis is given on a careful monitoring and review of SFC recommendations by the Finance Commissions of Andhra Pradesh, Assam, Himachal Pradesh, Kerala, Punjab and Rajasthan. In Andhra Pradesh and Himachal Pradesh, the recommendation has been accepted. Kerala Government has taken steps to constitute a special cell in the Finance

Department for this purpose and it is further recommended that the cell should be revamped and assigned the task of regular monitoring of finances.

In the states of Assam, Madhya Pradesh, Maharashtra, Orissa, Punjab, Rajasthan, Tamil Nadu and Uttar Pradesh, the development and maintenance of a database on municipal finance is recommended. In addition, emphasis is also given on development of a Management Information System/Computerisation of data in the states of Haryana, Punjab, Rajasthan and Uttaranchal. As per the SFC reports, some progress has been achieved, however, much remains to be done.

Conduct of detailed studies on the finances of local bodies (covering areas such as tax potential, sources of additional resource mobilisation, tax structures, user charges, cess, etc), their organisational structure, etc., is recommended by the Finance Commissions of Goa, Himachal Pradesh, Kerala, Rajasthan and Uttar Pradesh. The State Governments of Goa and Rajasthan have accepted the suggestion, however, adequate information is not available on the implementation status.

Participation of the community and the private sector, especially in the delivery of urban services is being emphasised in the states of Gujarat, Karnataka, Madhya Pradesh, Maharashtra, Rajasthan, Tamil Nadu, Uttar Pradesh and West Bengal. The information on Rajasthan reveals that in Jaipur and Kota, non-government organisations have been involved in urban services delivery.

In a number of states, it is recommended that training programmes for municipal official and non-officials (i.e., elected representatives) should be organised to improve their efficiency and attitude, and that such training should be imparted by technical, non-profit and autonomous institutions. This suggestion is accepted in the states of Haryana, Karnataka, Maharashtra, Manipur, Orissa, Rajasthan, Tamil Nadu and Uttaranchal. In Rajasthan, various programmes are being conducted by the Rajasthan Institute of Public Administration. It is reported that due to a shortage of funds, the Directorate of Local Bodies is unable to take up new training programmes.

Functioning of District Planning Committees and Metropolitan Planning Committees

State-wise information on the number and composition of district planning committees (DPCs) is given in Table 7. The data show that DPCs have been constituted in a total of 10 states of India. These include Bihar, Chhatisgarh, Haryana, Karnataka, Kerala, Madhya Pradesh, Orissa, Rajasthan, Tamil Nadu and West Bengal.

It may be observed from the table that the members of DPCs vary among the states. They generally comprise the minister-in-charge of district, mayor of corporation, chairperson of council, chairperson of zilla parishad/panchayat, elected members of local bodies (both rural and urban), special invitee members (i.e., MPs, MLAs, MLCs), nominated members, divisional commissioner, deputy commissioner, additional deputy commissioner, district collector, district planning officer, district statistical officer, etc.

Insofar as the functioning of DPCs is concerned, it is understood that in Karnataka, Kerala and Tamil Nadu, DPCs have been constituted and technically they are functioning. However, it is learnt that in Karnataka they have not been functioning as expected. In fact, Kerala is the only state in the south where DPCs are active and functional. In the case of Madhya Pradesh, it is learnt that the DPC has no executive powers. In Chhatisgarh, the DPCs are not functioning at all and no meetings of DPCs are being held.

**Table 7: State-wise Information on Functioning of District Planning Committees in India
(as on October 2004)**

S. No.	Name of State/UT	Number of DPCs	Composition of DPCs
1	Andhra Pradesh	0	
2	Arunachal Pradesh #		
3	Assam	0	
4	Bihar	✓ (38)	
5	Chhatisgarh	✓	Elected members of local bodies, nominated members, minister-in-charge of district, district collector, special invitee members (MPs, MLAs, etc.)
6	Delhi	0	
7	Goa	0	
8	Gujarat	0	
9	Haryana	✓ (19)	Elected members of local bodies, divisional commissioner, deputy commissioner, additional deputy commissioner, district planning officer, district statistical officer, special invitee members (MPs, MLAs, etc.)
10	Himachal Pradesh	0	
11	Jharkhand	0	
12	Karnataka	✓	Elected members of local bodies, chairperson of zilla panchayat, mayor of corporation, chairperson of council, special invitee members (MPs, MLAs, MLCs, etc.)
13	Kerala	✓	Elected members of local bodies, special invitee members (MPs, MLAs, etc.)
14	Madhya Pradesh	✓	Elected members of local bodies, nominated members, minister-in-charge of district, district collector, special invitee members (MPs, MLAs, etc.)
15	Maharashtra	0	
16	Manipur		
17	Meghalaya @		
18	Mizoram @		
19	Nagaland @		
20	Orissa	✓ (30)	Elected members of local bodies, nominated members, district collector, etc.
21	Punjab	0	
22	Rajasthan	✓	Total 25 members: elected members of local bodies, nominated members, pramukh of zilla parishad, chief planning officer of zilla parishad
23	Sikkim		
24	Tamil Nadu	✓	Elected members of local bodies, chairman of district panchayat, mayor of corporation and district collector
25	Tripura	0	
26	Uttaranchal	0	
27	Uttar Pradesh		
28	West Bengal	✓ (18)	Elected members of local bodies, appointed members by state government, sabhapati of zilla parishad, district magistrate

Notes:

1. # - There are no municipalities in Arunachal Pradesh.
2. @ - The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India.
3. Blank spaces in the table indicate that data are not available.
4. Status of information provided in the table is based on data collected over a period of time and may therefore not tally with the latest position in the different states of the country.

State-wise information on the number and composition of metropolitan planning committees (MPCs) is given in Table 8. The data show that such committee has been constituted only in the state of West Bengal.

The Kolkata metropolitan planning committee (KMPC) comprises 60 members, including chief minister of state, minister-in-charge of municipal affairs and urban development,

elected members of local bodies and nominated members. Of the 60 members, 2/3rd members are elected and 1/3rd are nominated. Chief Minister of the state is the Chairman of KMC and the Minister-in-charge of Municipal Affairs and Urban Development Department of the state is the Vice-Chairman. Kolkata Metropolitan Development Authority (KMDA) is the technical secretariat of KMPC and Secretary, KMDA is the Secretary of KMPC.

Table 8: State-wise Information on Functioning of Metropolitan Planning Committees (as on October 2004)

S. No.	Name of State/UT	Number of MPCs	Composition of MPCs
1	Andhra Pradesh	0	
2	Arunachal Pradesh #		
3	Assam	0	
4	Bihar	0	
5	Chhatisgarh	0	
6	Delhi	0	
7	Goa	0	
8	Gujarat	0	
9	Haryana	0	
10	Himachal Pradesh	0	
11	Jharkhand	0	
12	Karnataka	0	
13	Kerala	0	
14	Madhya Pradesh	0	
15	Maharashtra	0	
16	Manipur		
17	Meghalaya @		
18	Mizoram @		
19	Nagaland @		
20	Orissa	0	
21	Punjab	0	
22	Rajasthan	0	
23	Sikkim		
24	Tamil Nadu	0	
25	Tripura	0	
26	Uttaranchal	0	
27	Uttar Pradesh		
28	West Bengal	✓ (1)	Total 60 members: elected members of local bodies, nominated members, chief minister of state, minister-in-charge of municipal affairs and urban development

Notes:

1. # - There are no municipalities in Arunachal Pradesh.
2. @ - The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India.
3. Blank spaces in the table indicate that data are not available.
4. Status of information provided in the table is based on data collected over a period of time and may therefore not tally with the latest position in the different states of the country.

Areas for Further Reforms and Improvement

State-wise information on the areas identified for further reforms and improvement is given in Table 9. It may be stated that there are a number of areas, which are common in respect of most states. These are: financial reforms (including property tax, accounting – double entry, issuance of bonds, rationalisation of stamp duty, levy of reasonable user charges); private sector participation in service delivery, contracting of services, computerisation of municipal records, training and capacity building, functional domain of ULBs, etc.

Table 9: Areas for Further Reforms and Improvement

S. No.	Name of State/UT	Areas
1	Andhra Pradesh	Preparation of broad guidelines for ULBs, population limit to be prescribed for each WCs, list of local functions and financial sources to be specified through constitutional amendment, representative & participatory character of DPCs & MPCs to be maintained, SFCs to be strengthened
2	Arunachal Pradesh #	
3	Assam	PT reforms, accounting reforms
4	Bihar	PT reforms, double entry accounting
5	Chhatisgarh	Reforms in functions of ULBs, financial practices, planning, training of officials & elected representatives, etc.
6	Delhi	PT reforms, double entry accounting, revision in rates of transfer duties
7	Goa	Reforms in functions of ULBs, financial practices, planning, training of officials & elected representatives, etc.
8	Gujarat	Reforms in functions of ULBs, financial practices, planning, training of officials & elected representatives, etc.
9	Haryana	Double entry accounting, levy of reasonable user charges, PT reforms, rationalization of stamp duty
10	Himachal Pradesh	Rationalization of stamp duty, PT reforms, levy of reasonable user charges, double entry accounting
11	Jharkhand	
12	Karnataka	Preparation of broad guidelines for ULBs, population limit to be prescribed for each WCs, list of local functions and financial sources to be specified through constitutional amendment, representative & participatory character of DPCs & MPCs to be maintained, SFCs to be strengthened
13	Kerala	Preparation of broad guidelines for ULBs, population limit to be prescribed for each WCs, list of local functions and financial sources to be specified through constitutional amendment, representative & participatory character of DPCs & MPCs to be maintained, SFCs to be strengthened
14	Madhya Pradesh	Reforms in functions of ULBs, financial practices, planning, training of officials & elected representatives, etc.
15	Maharashtra	Reforms in functions of ULBs, financial practices, planning, training of officials & elected representatives, etc.
16	Manipur	
17	Meghalaya @	
18	Mizoram @	
19	Nagaland @	
20	Orissa	
21	Punjab	Levy of reasonable user charges, property tax reforms, part privatization of civic services, double entry accounting
22	Rajasthan	Reforms in functions of ULBs, financial practices, planning, training of officials & elected representatives, etc.
23	Sikkim	
24	Tamil Nadu	Preparation of broad guidelines for ULBs, population limit to be prescribed for each WCs, list of local functions and financial sources to be specified through constitutional amendment, representative & participatory character of DPCs & MPCs to be maintained, SFCs to be strengthened
25	Tripura	Rationalization of stamp duty, computerization of records, PT reforms, levy of user charges, double entry accounting
26	Uttaranchal	Contracting of services
27	Uttar Pradesh	PT reforms, computerization of municipal records, double entry accounting
28	West Bengal	PT reforms, accounting reforms, issue of municipal bonds, private sector participation

Notes:

1. # - There are no municipalities in Arunachal Pradesh.
2. @ - The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India.
3. Blank spaces in the table indicate that data are not available.

CONCLUSION

A review of the implementation status of selected mandatory and discretionary provisions of the Constitution (74th Amendment) Act has been presented in this paper. This analysis has

thrown light on the performance of different state governments on the compliance/implementation of the Act provisions.

An attempt has been made to tabulate the state-wise compliance of the 74th Amendment Act provisions (see Table 10). It may be noted that some important provisions of the Act have been included in the table. These are: constitution of ULBs; reservation of seats in ULBs, regular conduct of elections, constitution of WCs, DPCs, MPCs and SFCs.

Table 10: State-wise Compliance of the 74th Amendment Act Provisions (as on October 2004)

S. No.	State/UT	Constitution of ULBs	Reservation of Seats	Regular Conduct of Elections	Constitution of WCs	Constitution of DPCs	Constitution of MPCs	Constitution of SFCs
1	Andhra Pradesh	✓	✓	✓	✓			✓
2	Arunachal Pradesh#							✓
3	Assam	✓	✓	✓				✓
4	Bihar	✓	✓	✓		✓		✓
5	Chhatisgarh	✓	✓		✓	✓		✓
6	Delhi	✓	✓	✓	✓			✓
7	Goa	✓	✓	✓				✓
8	Gujarat	✓	✓	✓				✓
9	Haryana	✓	✓	✓		✓		✓
10	Himachal Pradesh	✓	✓	✓				✓
11	Jharkhand	✓	✓					✓
12	Karnataka	✓	✓	✓	✓	✓		✓
13	Kerala	✓	✓	✓	✓	✓		✓
14	Madhya Pradesh	✓	✓	✓	✓	✓		✓
15	Maharashtra	✓	✓	✓	✓			✓
16	Manipur	✓	✓	✓				✓
17	Meghalaya @							
18	Mizoram @							
19	Nagaland @							
20	Orissa	✓	✓	✓		✓		✓
21	Punjab	✓	✓	✓				✓
22	Rajasthan	✓	✓	✓		✓		✓
23	Sikkim	✓	✓	✓				✓
24	Tamil Nadu	✓	✓	✓	✓	✓		✓
25	Tripura	✓	✓	✓				✓
26	Uttaranchal	✓	✓	✓				✓
27	Uttar Pradesh	✓	✓	✓				✓
28	West Bengal	✓	✓	✓	✓	✓	✓	✓

Notes:

1. # - There are no municipalities in Arunachal Pradesh.
2. @ - The 74th Amendment Act provisions have not been applied to certain Scheduled Areas and the Tribal Areas of India.
3. Status of information provided in the table is based on data collected over a period of time and may therefore not tally with the latest position in the different states of the country.

The information provided in Table 10 shows that some states have performed better than others. An important observation is that while there has been full compliance in respect of provisions, such as constitution of three types of ULBs, reservation of seats, and constitution of SFCs, the same cannot be said for other provisions, namely constitution of Wards Committees, District Planning Committees and Metropolitan Planning Committees. It may be

stated that the state of West Bengal has shown full commitment and a high compliance of the provisions.

The findings of the study show that urban local governments now comprise of persons with diverse backgrounds, namely the elected members (such as the Mayor, President and Councillors, who are representatives of citizens), the nominated members (who are selected by the state government from amongst persons having special knowledge or experience in municipal administration) and the ex-officio members (such as the MPs and the MLAs, who are responsible for spending funds received from the government on various development works within their constituency). Furthermore, seats in urban local governments have been reserved (for the posts of Mayor, President and Councillors) for persons belonging to the scheduled caste, scheduled tribe, backward class and women categories. By introducing these changes in the composition of urban local governments, the main objective of the government is to create a representative government at the local level, which is capable of addressing the needs of all sections of the society.