Chapter – I

Local Governance: Issues, Perspectives and Comparative Experiences

Local governance has emerged as one of the core issues of debate on governance across the polities. There is greater degree of realisation that the centralized mode of governance creates distance between the government and people. The myth of efficiency attached to a centralized decision making is interrogated by the participatory urge of decision making and citizen centric mode of governance. The experiences suggest that the centralized mode of governance does not essentially ensure better governance and efficient delivery of services. On contrary, it may lead to creation of a regimented structure and inefficient bureaucratic structure. Even the top down approach of governance and service delivery may create a hiatus between the government and people. In fact, local governance structures are now much closer to the people, which are considered as a requisite principle of efficient governance and service. It is this reason that greater emphasis has been paid on the model of local governance in recent decades. The capacity of participatory structures of local government to bridge the gap between the people and state makes special appeal. This is endowed with inherent quality that can facilitate not only efficient governance and service delivery but also ensure greater degree of citizen participation in governance. In many cases local governance is proving to an instrument of inclusion and empowerment of disadvantaged groups. This chapter is an attempt to grasp the major thrust of debate on the issue on the one hand and the
comparative cases of local governance on the other. Needless to mention, this help us in understanding the multifaceted dimensions of local governance.

The Chapter attempts to examine the issues and perspectives related to local governance. It endeavors to examine the relationship between local governance and democracy, and local governance and inclusion on the basis of arguments advanced in the literature on the issue. It reiterates the argument that the structure of local governance could lead to better governance in terms of efficiency and service delivery. Evidences suggest that the empowered local governments could lead to greater degree of citizens’ participation in governance and development. Switzerland and UK are the two most important and notable cases representing two distinct political systems- Federal and Unitary respectively. Despite the differences in governance structures and orientation, these two cases of developed world make provision for empowered structure of local governance wherein citizen’s participation becomes important. Effective institutions of local governance can unfold/initiate and deepen democracy which can provide channel for inclusion. The case of India is undoubtedly important in this regard. The structures of local governance especially after the constitutional amendment of 73 rd and 74th effecting local government have enabled space for citizen participation of governance on the one hand, and inclusion and empowerment of disadvantaged groups on the other. The chapter attempts to articulate the arguments built around the structure of local governance. For a comprehensive insight into the problem the chapter also examines the comparative experiences of local government across the polities, but it basically maps out the cases of federal systems.

However, before delving into the issues of local governance and democracy, or local governance and inclusion, or the competence of the structures of local government,
is appears appropriate to examine the concept of local governance and its relationship with other forms of governmental structures. Local governance in its contemporary usage is referred as that form of governance which is near to the people, in terms of its participatory thrust. The thrust of participation itself has led to a shift in emphasis from government to governance. Governance is seen not merely as structure of administration but something more. It is considered as a link between the people and the state. In recent years conceptualization governance is considered as networked relationship between society, state and market. This network conceptualization of governance in which market is integrally linked to the state and society, has gained currency especially from the 1990s onwards. The debate on government versus governance led to the concept of ‘governance’. It has been forcefully argued that in people participation is seminally important for ensuring a better form of governance. In this framework the structure of local governance emerges out as an important agency of citizen participation and effective service delivery. As pointed out governance in the literature of World Bank stands for good governance. Key elements of good governance include accountability of government agencies, rule of law, transparency and protection of poor people and of the environment. The failure syndromes that lead to bad governance resulting from factors such as erratic legal systems, excessive regulation, corruption, nepotism, patronage and non transparent decision making, necessitated rethinking of governance style. As evident, in this conceptualization governance is prefixed with good and linked to some of the characteristics that include the following:

Participation

Participation is the one of requisites of governance. People are both agents and beneficiaries governance. People through various groups and associations like trade
unions, political parties, NGO, business groups, cast or religious groups participate in governance.

Accountability

Accountability is the second most important attribute of governance. It means those who rule are answerable to those from whom they derive their authority.

Predictability

It refers to the existence of laws, regulations and policies to regulate society and their consistent application. There should be orderly existence of citizens and institutions in the society. Good Governance and third world development is slow not simply because there exists scarcity of resources, come, poverty, illiteracy, ill-health, infrastructural and host of social, economic and political problem of stagnation and sustainability.

Transparency

Transparency requires public access to information about the decision-making process and verifies the governance assertions. It refer to the availability of information to the general public and clarity about government rules, regulation and decisions.

Rule of Law

Governance requires fair legal frameworks that are enforced impartially. It also requires full protection of human rights, particularly those of minorities. Impartial enforcement of law requires an independent judiciary and an impartial and incorruptible police force.
Responsiveness

Governance requires that institutions and processes try to serve all stakeholders within a reasonable time frame.

Consensus-Oriented

There are several actors and many viewpoints in a given society. Good governance requires meditation of the different interest in society to reach a broad consensus in society on what is in the best interest of the whole community and how this can be achieved.

Effectiveness and Efficiency

Good governance means that processes and institutions produce results that meet the needs of society while making the best use of resource at their disposal. The concept of efficiency in the context of good governance also covers the sustainable use of natural resources and the protection of the environment.

Within the broader framework of governance local governance acquires additional significance as it emphasizes involvement and participation of the people at the local level. The autonomy to formulate policy and planning and implement them at the local level is more appropriately informed by the principle of subsidiarity. The principle of subsidiarity is well recognized in the literature of decentralization which implies that a task must be performed by the structure at the appropriate level competent to perform the function, and it should be transferred to an upper level only in case the level below to it is not competent to perform or fulfill the task assigned to it. The subsidiarity principle of governance provides legitimacy to the model of local governance within a political system.
George Mathew observes that local governance can be understood as an initiative in all federal systems to enable democracies to represent both “numbers and interests” as adequately as possible. However, in most federal systems, there has been more emphasis on “institutional realities” than on “operational realities”. Consequently, there are some major challenges before federal politics with respect to local governments. Some federal systems have not risen above the level of mere decentralization, thereby, not proclaiming local government as one of their constitutional features.

Local Governance, Democracy and Inclusion

Three variables taken for critical examination in this section are inextricably linked with each other. Local governance can help in evolving and sustaining participatory structure which in turn, unfolds possibility of participatory mode of democracy. If there exist participatory structures at local level facilitating people’ participation in governance, this could enhance the possibility of inclusion of all the communities and groups at the local level. This proposition, however, can not be taken for granted. Contrary arguments also exist that interrogate this proposition. It is argued that the structure of local governance does not essentially lead to either democracy or inclusion. In classic theoretical articulation, local government and democracy stand opposite to each other. Marina Pinto makes an attempt to map out the debate on the issue. Pinto maintains that the debate on the issue has centered around whether local governance is essentially a vehicle of local democracy or merely an administrative agency of the state. In other words, it is the familiar democracy versus efficiency dilemma, implying thereby that to have one is to ignore the other and vice versa. An exposition to the early theoretical formulation on the relationship between democracy and local government is interesting one. Pinto maintains that the 19th
century Prussian idealist Rudolf von Gneist supported local self – government but saw self – government as strictly class government. Gneist upheld monarchical and aristocratic forms of governance and was opposed to democracy. He rejected the democratic principle of equality and felt that it was the prerogative of the landed gentry to hold higher offices. He did not support electoral practices and seemed to fear the onset of democracy. ‘No vital philosophy of local government’, he said, ‘can come to mankind by way of representative institution’. To him, just casting a vote at periodic intervals… is no longer a link which holds together classes with distinct interests…. Unites and reconciles the propertied to the working classes and accustoms them to live peaceably together.’

Another theorist of local government Langrod finds a fundamental contradiction between governance and democracy. Democracy, for Langrod, is by definition, an egalitarian, majority and Unitarian system that tends everywhere and at all times to create a social whole, a community which is uniform, leveled and subject to rules.’ As the democratization process becomes complete and effective, it moves towards centralization with concern for the whole or totality, with emphasis on matters like uniformity and the like. Contrary to this, local government seeks decentralization for it represents the phenomenon of differentiation and individualism. It deals with small social groups and their localities, with a focus on autonomy.

Langrod was supported by Dr Leo Moulin who saw democracy as the active presence of a kind of ‘ethics’ or ‘public interest’ which demands respect for human rights, fair play, tolerance and unselfishness.

Langrod’s and Moulin’s views were challenged by Keith Panter – Brick who maintained that ‘local politics is a milieu in which the clear over all vision of the
central authority is refracted, bent to suit special and purely local interests.’ To him, the local communities were stagnant pools in which the pure streams of the general will, which is always right, has to meander and loses itself. Those who are active in local affairs are normally not so parochial that they cannot respond to the just claims of others when these are pointed out to them. Democratic government is an art and since art is learnt by close attention to detail, local government is a vital training ground for democracy.⁸

Further elaboration on local governance comes from the liberals, largely exemplified in the writings of John Stuart Mill and Alexis de Tocqueville. In fact, this theory was first systematically developed by John Stuart Mill in his works On Liberty (1859) and in Consideration on Representative Government (1861).⁹ The definitions of democracy and local self – government, stipulated in this doctrine, flow from an implicit belief in liberty. Liberty stands for the absence of restraint in relation to self – regarding actions of individuals, groups and local political authorities. Liberals have always promoted a liberal way of life. To them, a properly functioning democracy will invariably make possible the liberal way of life they seek. Disenchanted with monarchy and aristocracy, they have reposed full faith and trust in ‘the people’. Liberal ideology gives local self – government a uniquely democratic political quality. The kind of emotive language used indicates the degree of conviction. Bryce refers to local bodies as ‘tiny fountainheads of democracy, rising among the rocks, sometimes lost altogether in their course, sometimes running underground to appear at last in fuller volume’¹⁰.

Pinto emphasizes that while Gneist’s theory defines local self – government in such a manner that democracy was shown to be incompatible with its true nature, it was Langrod, who wrote in the Journal of the Royal Institute of Public Administration
in 1953, that there was a fundamental contradiction between local self-government and democracy. For Langrod, local government is not necessarily an integral part of a democratic system of government and could even run counter to it. He sees local government as only a technical arrangement within the mechanism of the administrative system, based on the adaptation of traditional forms of management of local affairs to the varied needs of modern administration. Therefore, the best way to understand local government would be to find a place for ground realities in the form of tradition of local government.\textsuperscript{11}

The developments over the century and years across the political and economic realm have unfolded a new reality wherein local governance and democracy are closely intertwined. The federalist literature more specifically argues for diffusion of power from a single centre of power to multiple structure of governance. Powersharing is one of the thrust areas of concern for the federalists. An extended argument in this regard stands for enhancing the role of local governance structures for enhancing democracy and inclusion. Nico stytler, one of the experts on local government maintains that local government, by its very nature, brings government closer to the people, making the translation of community preferences into responsive policy and programs more likely. Locally based decisions are often more practical and sustainable in that they acknowledge and accommodate local diversities and historic complexities that may exist within a particular locality. Only with the full cooperation of the local community, then, can development projects succeed. Participatory democracy can also be more readily put into practice in local arenas. Thereby allowing the community to identify more with its political institutions and fostering a sense of ownership over common resources. The proximity of
citizens to their elected representatives also makes it easier to call the latter to account.  

Local self-government plays a critical role in enhancing democracy in federal systems; it brings government closer to the people through both representative and participatory democracy. It allows for the deepening of democracy facilitating the participation of minorities and disadvantaged groups. For the enhancement of inclusive democratic government locally, two essential ingredients must come from the community itself. The first is an inclusive elected leadership whose explicit and manifest goal is to serve the entire community. The second ingredient, which supports and holds the former accountable, is an active civil society. An inclusive form participatory democracy requires that all members of the local community claim their rightful place in local government. This requires a strong civil society that can interface with local government in an informed and directed manner. In particular, strong grass roots organizations can articulate the needs of the members more effectively and engage local government in the spaces available for participation on key decisions for more effective local solutions. Only when civil society reflects all the inhabitants, including the disadvantaged groups, does the promise of the municipality being the universities of its inhabitants become a reality. 

Stytler argues that local government has its roots in the political organization of close-knit villages and towns. Given their roots in village life, local authorities are premised on the notion that the municipal institutions belongs to the inhabitants of the locality. In some jurisdictions, the municipality, often referred to as a municipal corporation, is thus described as a form of universal of persons; a new entity (the body corporate) is created by law out of a group of persons and then endowed with a distinct juristic personality. Given such a premise, the elected representatives of the municipality,
forming the municipal council, are merely the agents of the body corporate comprising the inhabitants.\textsuperscript{14}

The thrust of democracy can be realized through a network of local governance. It could be both participatory and direct. In participatory mode of democracy greater degree of people involvement in decision-making activities at various levels is a prerequisite. In certain cases, we find direct model of democracy wherein all major decision is taken after obtaining the consent of the people. Switzerland is a clear cut example of this model of direct democracy. In such case community plays important role. Obviously the structures of local governance prove to be instruments of enhancing democracy and inclusion.

Participatory thrust of democracy in local government is subjected to certain conditions. While there is a variety of principles and practices, a number of basic elements are found in most participatory systems. The first element on which community participation is build is transparency in decision-making. Although public disclosure is a one-way communication, it lays the foundation for a dialogue with the community. The second element is the entitlement of residents to communicate their demands and grievances to their local authority. The right to petition has deep roots in the democratic tradition and in many municipalities there are specific procedures to follow. The third common element is consultation. It comes in various forms and shapes, the overall objective being that the municipality actively seek the views of the community and consider such views once received.\textsuperscript{15}

It is also maintained that in their day-to-day governance, local government institutions may be the most responsive to civil society in general and to disadvantaged groups in particular. However, a caution needs to be maintained in
making this statement. Local government does not always prove to be inclusive. In certain cases, it could reinforce the structure of inequality and exclusion. Indian case of caste based inequality and exclusion in the village power structure is reminder of the limit. B.R Ambedkar, the most ardent spokesman of disadvantaged groups in India was opposed to a very strong local government in villages of India. Given the context of rural power structure he had strong reservation about the local governance structure at the village level. His reservation primarily comes from his apprehension of exclusion of disadvantaged group. In this case he stood diametrically opposite to Gandhi who was all for Gram Swaraj and empowered local governance institution at the village level. Disadvantaged groups are by their very position of marginalization excluded from political decision-making. It is in this context that any conclusive about the local governance structure as agency of inclusion may invite serious interrogation. In order to grapple with the reality of exclusion, it would be necessary to develop the structure of local governance in a manner that it could prove to be both inclusive and promoting democracy.

Given the limitation of the context of local governance it is necessary to design local governance institution in such a way that can ensure inclusion and participation of the disadvantaged groups. It is appropriately argued that to secure an inclusive democratic institution, local governments must meet three challenges: (1) empowering disadvantaged groups, including women, by involving them in local governments as elected representatives and managers; (2) making decision-making more participatory; and (3) making participatory decision-making more inclusive also of disadvantaged groups including women.
Challenges and Opportunities for Local Governance

Despite the relative merits of local governance, the institutions of local governance are facing immense challenges across the polities. Nico Stytler very succinctly presents the challenges of the local governments in federal systems. Among them, three challenges have specifically been mentioned. These are as follows:

The first and foremost limitation of the local government is lack of autonomy or in other words lack of self government. The local government system is premised on representative and participatory democracy, requiring a bottom-up approach to governance. The converse is often the case; however, local government policy is often dictated by state/provincial government. Where municipalities cannot determine the contours of their development (goals as well as performance targets), the very purpose of a democratic local government is undercut, rendering them mere appendages of state/provincial government. Secondly, local government is frequently not inclusive in terms of political representation or decision-making, resulting in policies and actions that often do not address the needs of disadvantaged groups, including women. Thirdly, there is a lack of civil society structures. Within a democratic form of government, citizens act most effectively through their civil-society formations, be they political parties, social movements, faith-based organizations, or other non-governmental organization. While strong civil-society structures are most often encountered in rural areas, the millions of poor people living in the impersonal if not hostile environment of large metropolitan conurbations are often ineffectively organized in civil-society formations, further exacerbating their marginal statues. 17
While discussing the limitations of local government especially in the context of its inclusive nature, a caveat needs to be added. Styler clearly points out that, in general, women in both the North and South are under-represented in municipal councils, are infrequently elected to civil leadership positions, and seldom occupy management position in municipalities. Overall, less than 20 per cent of councilors are women (the exceptions are dealt with later), showing great variation between countries and continents. Furthermore, when women enter local politics, they do not stay long in politics, often as a result of having to balance the competing demands of home and public life. Another disadvantaged group that local governments must include is indigenous populations in countries as diverse as Mexico, Canada, Australia and the United States. After decades of marginalization, the indigenous residents of Chiapas, Mexico, staged an armed rebellion in 1994. One of their key demands was the right to develop municipal governments where indigenous communities formed the majority of the population. 18

The limitations and deficits of local governance can be overcome only by taking corrective measures. Empowerment of disadvantaged groups is key to an inclusive local government. This can be ensured by making the institution of local governance more inclusive which, in turn, requires adequate representation of disadvantaged groups at various levels of governance. There could be variety of mechanism for representing these groups. In some cases it could be quota system, in other simple proportionate representation principle. Indian experience in this regard is very important. The guaranteed representation of disadvantaged groups has led to greater degree of participation of the disadvantaged groups in the governance process at the local level. Mere representation of disadvantaged groups in structures of local government does not ensure either participation or inclusion in the real sense
of the term. Mere numbers are not sufficient. Qualitative representation is a requisite condition of inclusive local governance.

Stytler very perceptively observes that representative democracy is only one side of the coin in local democracy; equally important is the practice of participatory democracy. Participatory democracy cements the interface between civil society and local government. The benefits of an effective system of community participation are manifest. By getting actively involved in public affairs, citizens identify themselves with the institutions of local government. Most important, it provides civic dignity to those who participate by having their voices heard. Participation in decision-making processes is meaningful where they are concerned with the key decision that must be made by a municipality. These decisions include the development of an annual or multi-year strategic plan, the annual budget, the passing of by-laws and decisions about the delivery of basic services. civil-society participation in local government decision-making acts as a counterweight to secret lobbying and influence peddling of the powerful groups in society, it is, not surprisingly, the better organized and well-off sectors of civil-society that exploit the opportunities for participation. However, participatory processes remain vital to disadvantaged groups. While access to the political systems through formal processes may be difficult and costly, community participation is much easier and direct, providing opportunities for those who are disempowered in societies with great disparities in wealth and influence. 19

Local Governance in Centralized-Unitary System and Decentralized- Federal System

If we map out the structures of local governance, we come across the reality that local governments constitute the levels of governance in both the centralized unitary
systems and decentralized federal system. However, the locus stand of local governance in two systems differs in significant manner. In unitary system the local governments are seen merely as agency of service delivery or at most units of administration at the local level. In unitary system they may be possibility of decentralization in various forms. Some of the forms of decentralization are as follows:

Delegation : allocation of power by the center to other level of government in which the center retains authority to withdraw the delegated power.

Devolution: conferral of legislative and executive, power of government in a manner that gives them substantial autonomy.

Regional autonomy : conferral on one or more region of a greater degree of self-governing authority than is conferred on other parts of the state.

Federation : division of governing authority between the center and one or more other of government in a way that gives each of them final autonomy in their own area of responsibility.

The first two forms of decentralization are the most known and prevalent forms in unitary systems. In some of the cases such as in UK and Italy regional autonomy is also an important dimension. Federation is, however, is premised on the principle of autonomy. Though, we also find variations in the model of decentralization within a federal structure, the most appropriate expression it is referred as non-concentration.

The place of local government significantly varies as per the model of governance. In federal systems they are generally treated as the third order of government. Despite the fact of having a status of third order of government in federal system, local
governments do not enjoy the desired autonomy in all respect. In majority of the cases the local governments are unable to enjoy capacity and competence in real sense of the term. Even if local governments are loaded with responsibilities, they hardly have corresponding financial capacity.

In systems where the federal state is conceived of as comprising only the federal order and the states or provinces, the former usually has little or no direct relation with local government. The interests, concerns and needs of the local order are mediated by the states or provinces, which have to act as agents or trustees. Obviously, this construction is somewhat awkward. A trustee should never have a vested interest in the matter at hand. But provincial and local governments do not necessarily have the same interest’s vis-à-vis the federal government. Local government often claims that the federal government and the constituent states come to an agreement at their expense-the absent third party. Federalism help to break of monopoly of power in the national order by bringing decision making closer to people through localizing it.

The mismatch between allocation of functions and available resources is one of the major problems that the local governments in federal systems are confronted with. A comparative perspective on local governance across the polity, particularly in federal systems in ensuing section of the chapter indicates the complexity of the context and working of the local government.

Local governments across the polities are assigned certain responsibilities which are generally common to both the unitary and federal systems. Some of the functions of local governments are compulsory, obligatory or mandatory. The obligatory functions are imposed on the local government institutions by law. If the local government
does not perform these functions properly, then the central or the state government may compel it to do so. These functions are of four types: public safety and convenience, medical relief, public works and public health. Besides the obligatory functions there are some optional, permissible or discretionary functions are those which a local government may perform depending upon its capacity. These functions are, generally, performed after the local government has met its obligatory functions. The main optional functions in the Indian context are – furthering educational objectives, construction of public parks, control of unwanted animals, construction of poor houses, provision of dairy farms and milk supply, maintaining public dwelling places, swimming pools, establishment of Ashrams for blinds, cripples, lames and disabled, running veterinary dispensaries, organization of public reception/ceremonies, provision of hospitals, dispensaries and poor houses etc.

Besides the obligatory and discretionary functions local governments may also be assigned certain responsibilities by the higher order of the government. It may be the case of federal/central government or the state/province government. These responsibilities or function generally referred as agency function. In recent years in India agency functions have come into prominence. There many functions that are being entrusted to the local government. In most of the cases these are centrally sponsored schemes. Whenever the central or the state government entrusts a local government with an agency function, it pays the cost of its management to the concerned local government. For example, the central or state government may direct any local government to perform any function such as the construction bridges, roads or any other welfare activities. Moreover, function of local governments widely depends upon the nature and character of the government itself.
These functions not only undergo drastic changes over time, but also depend upon the political system of a nation.

**Local Governance in Comparative Perspective**

The institutions and structures of local governance are found in both centralized and decentralized systems. Generally federal system follows the principle of decentralization. The scale and extent of decentralization varies considerably within the federal systems. In some of the federal systems centralized structures are not exception. This is one of the reasons that led Preston King to create a separate category of centralised federalism within the classification of federal systems. On contrary there are cases of unitary systems wherein local governments have been assigned significant responsibilities. The cases of UK and Italy are important in this regard. The ensuing section attempts to have comparative perspective on local governance on three important parameters- i.) Constitutional status of local government; ii) Competence of local government in terms of power and responsibilities; iii) Fiscal autonomy and capacity of the local government.

**Constitutional Status of Local Government**

Though constitutional status per se is not a guarantee of empowered local government, the constitutionally guaranteed autonomy and competence of local government can make difference to a larger extent. The Indian example is important in this regard. Though institutions of local governance for both rural and urban areas have been an integral dimension of governance, the constitutional status granted to them through 73rd and 74th constitutional amendments has far reaching implications. The Table-1 presents a comparative perspective on the case.
Table-1

Constitutional Status of Local Governments\textsuperscript{21}

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Countries</th>
<th>Constitutional Status / Source of Creation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>USA</td>
<td>Local self – government has been institutionalized in thousands of compacts, charters, special acts, statutes, constitutional provisions, resolutions, ordinances, administrative rulings and court decisions since the earliest dates of settlement of this country. Municipalities are state creation</td>
</tr>
<tr>
<td>2</td>
<td>Canada</td>
<td>Canadian Constitution is a wholly provincial creation. Section 92 (8) of Canada’s Constitution Act places municipal institutions under the purview of provincial governments.</td>
</tr>
<tr>
<td>3</td>
<td>Australia</td>
<td>Each Australian state has its own constitution. By the year 1985, all state constitutions had recognized the local government.provincial creation</td>
</tr>
<tr>
<td>4</td>
<td>Austria</td>
<td>According to article 2 of B – VG, Austria is a federal state that consists of nine constituents \textit{Landen}. Within the context of this fundamental program, no mention is made of local government. But there is a chapter titled ‘municipalities’ (\textit{Gemeinden}). Articles 115 to 120 define the local government.</td>
</tr>
<tr>
<td>5</td>
<td>Germany</td>
<td>Germany’s Constitution, the Basic Law of 1949, and Article 28 of the basic Law .Part of land administration. democratically</td>
</tr>
<tr>
<td>6</td>
<td>Spain</td>
<td>Article 137 of the Spanish Constitution, the Spanish state is structured into municipalities and autonomous committees and all these bodies have autonomy to manage their respective interests.</td>
</tr>
<tr>
<td>7</td>
<td>Switzerland</td>
<td>The state structure of Switzerland has three levels: the confederation, the cantons, and the municipalities. At the level of cultural identity, a Swiss citizen enjoys three citizenships: municipal, cantonal and national. Article 50 of constitution in 1999 grants a special place to local government.</td>
</tr>
<tr>
<td>8</td>
<td>Italy</td>
<td>The Constitution Law 3/2001 states: The Republic consists of municipalities, provinces, metropolitan cities, regions and the State. The municipalities, provinces, metropolitan cities</td>
</tr>
<tr>
<td>9</td>
<td>South Africa</td>
<td>According to the Constitution status, forms third order of government.</td>
</tr>
<tr>
<td>10</td>
<td>India</td>
<td>Constitutional status created out of the mandatory provision of the central legislative Act of 1992. Enacted through the framework of a central legislation under the provision of Article 243. Created under the conformity law often the state under the framework of central legislation</td>
</tr>
</tbody>
</table>

It is quite evident from the above table that there is no uniformity so far as the constitutional status of local government is concerned. In the USA local government
are constitutionalised through state constitutions. All 50 state constitutions have provisions on local government. Therefore, the state legislatures play big roles in working out the myriad details of local government. Local self – government has been institutionalized in thousands of compacts, charters, special acts, statutes, constitutional provisions, resolutions, ordinances, administrative rulings and court decisions since the earliest dates of settlement of this country. Municipalities are state creation. In case of Canada local government are provincial creation. Section 92 (8) of Canada’s Constitution Act places municipal institutions under the purview of provincial governments. In Australia local governments are creation of the states. Each Australian state has its own constitution. By the year 1985, all state constitutions had recognized the local government. However, the local governments in Australia are not as empowered as they are in Switzerland or in Canada. Austria is basically a model of centralised federalism. According to article 2 of B – VG, Austria is a federal state that consists of nine constituents Lander. Within the context of this fundamental program, no mention is made of local government. But there is a chapter titled ‘municipalities’ (Gemeinden). Articles 115 to 120 define the local government. In Germany the local governments enjoys constitutional status as evident from Germany’s Constitution, the Basic Law of 1949, and Article 28 of the basic Law. Part of land administration. democratically governed and entrenches the right to local self – governance. In Spain local government enjoys constitution status under the Article 137 of the Spanish constitution. Article 137 of the Spanish Constitution, the Spanish state is structured in to municipalities and autonomous committees and all these bodies have autonomy to manage their respective interests. Local government is constitutionally recognized in Spain. Three are two types of local bodies-provinces and municipalities- that work under Spanish regional
states known as autonomous communities (ACs). Until 1985, the law of the dictatorship regulated Spanish local governments. However, according to Article 137 of the Spanish Constitution, Spain is structured into municipalities, provinces and autonomous communities.

In Switzerland, local governments, known as municipal governments, constitute the third order of governance after the confederation and cantons, and they are the chief feature of decentralized administration. Under Article 50, the autonomy of municipalities is guaranteed within the limits fixed by cantonal law. Thus, a municipality is not an institution of federal law. The state structure of Switzerland has three levels: the confederation, the cantons, and the municipalities. At the level of cultural identity, a Swiss citizen enjoys three citizenships: municipal, cantonal and national. Article 50 of constitution in 1999 grants a special place to local government. Italy has special mention of different levels of local governments in the constitution. The Constitution Law 3/2001 states: The Republic consists of municipalities, provinces, metropolitan cities, regions and the State. In South Africa the local governments have constitutional status. Similarly in India local governments have constitutional backing. The case of UK is different from others but interesting one. UK has two contradictory traditions which are central to any consideration of local government. One is parliamentary sovereignty in a unitary state and the other a long tradition of local independence where local authorities are seen as defenders of local opinion and values. The concept of parliamentary sovereignty implies that local authorities are the agents of the centre, concerned with the efficient administration of policies decided at the centre. In Brazil local government enjoys autonomy. The 1988 Constitution of Brazil guarantees autonomy to state and municipal order of government, the latter having mayors and city councils.
Areas of Competence and Functional Responsibilities of Local Governments

A comparative study of the local governments on the issue of competence allocation and functional responsibilities assigned to them again indicates variations. In many cases the local governments are assigned the responsibilities of service delivery at the local level. This function of local government also attributes local governments as mechanisms of service delivery rather than an institution of participatory decision making.  

Table-2

Areas of Competence and Functional Responsibilities of Local Governments

<table>
<thead>
<tr>
<th>No.</th>
<th>Countries</th>
<th>The areas of competence and functional responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>USA</td>
<td>Variations in competencies and functional responsibilities of local government autonomy across the states. Local governments are assigned wide range of responsibilities.</td>
</tr>
<tr>
<td>2</td>
<td>Canada</td>
<td>The general purpose of municipalities in Canada is two – fold: local government exists both as a political mechanism for the pursuit of community objectives and also as a provider of services to local residents. Most of the municipal spending is on service provision, especially transportation, protection and environment (water and sewers); services that can be best described as ‘services to property’. Majority of local government responsibilities are explicitly set out in legislation. Provincial governments change these legislated responsibilities regularly.</td>
</tr>
<tr>
<td></td>
<td>Australia</td>
<td>No state constitution guarantees any particular content for the powers of local government. In each case, the constitution explicitly leaves it to the state legislature to prescribe the powers of local government from time to time. The state constitutions provide surprisingly patch protection for local government against arbitrary dismissal.</td>
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<td>4</td>
<td>Austria</td>
<td>The Federal Constitution of Austria has set extensive rules for the municipalities. The state legislatures also frame rules regarding them. According to the Federal Constitution, municipalities are not merely administrative units but also autonomous bodies with the right to self–administration</td>
</tr>
<tr>
<td>5</td>
<td>Germany</td>
<td>Local government is in principle responsible for, and to administer within its own discretion all affairs within its territory. Local self–government has two dimensions: one administrative and the other functional. The administrative dimension relates to a municipality's management powers,</td>
</tr>
<tr>
<td>6</td>
<td>Spain</td>
<td>safety in public places, traffic, civil defense, fire fighting and prevention, urban regulation, historic–artisticheritage, environmental protection, supplies, abattoirs, markets and consumer.</td>
</tr>
<tr>
<td>7</td>
<td>Switzerland</td>
<td>Municipalities are responsible for the building of the local streets and squares, water and sewage systems, schools, etc, and have more recently been charged with responsibility for welfare, education, health, town and country planning, environmental protection, sports and recreation, culture, etc.</td>
</tr>
<tr>
<td>8</td>
<td>Italy</td>
<td>The following provisions govern the functions of various bodies. Article 117 paragraph 2(p): The State has exclusive legislative competence in matters of ‘electoral law, local government and fundamental functions of the municipalities, provisions and metropolitan cities. Article 118 paragraph 1: The administrative functions belong to the municipalities except when they are conferred to the provinces, metropolitan cities, regions or the State in order to guarantee uniform practice; the assignment is based on the principle of subsidiary, differentiation and adequacy.</td>
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<tr>
<td>9</td>
<td>South Africa</td>
<td>The local government derives its executive and legislative powers and functions from the Constitution. Schedules 4B and 5B list the functional areas of its competencies... In the concurrent list of functions of Schedule 4B are the following matters: Planning and building regulation , Household services (electricity, gas, water and sanitation) , Social services (child care facilities, health care) , Protective services (firefighting) , Economic activities (tourism, trading regulations) Transport (airports, public transport, ferries, traffic) Infrastructure ( air pollution)</td>
</tr>
<tr>
<td>10</td>
<td>India</td>
<td>The Eleventh and Twelfth Schedules of the constitution of India list out competencies and responsibilities of the local governments. It is, however, the jurisdiction of the respective states to transfer responsibilities listed out in the Schedules to the local governments.</td>
</tr>
</tbody>
</table>
From the above table it is evident that local governments across the polities perform a variety of functions despite the variations in the pattern of their competence. It also indicates that competence and responsibilities of local government vary from one case to another. In most cases the competences of the local government are very limited. In such cases local governments act only as mechanisms of service delivery of the national and provincial governments rather than a sphere of the federal structure. Obviously in the given context, the local government continues to exist as a subordinate structure of the Provincial /State /Unit of the Federal Structure.

In case of USA State and local governments are highly devolved and complex. The US Bureau of the Census recognizes five basic types of local government. Three of these- counties, municipalities, and townships- are general-purpose governments in that each is intended to provide an array of public services. Two additional types of limited purpose local governments also are recognized- school districts and special districts.

In case of Brazil the Constitution provides states with a wide remit of powers, including exclusive control of policing and criminal justice, while sharing responsibility for health, education, economic development and infrastructure with the federal government. Municipal government must share all these responsibilities with federal and state authorities, except for transport, its only exclusive public policy responsibility.

The local government, in case of South Africa derives its executive and legislative powers and functions from the Constitution. Schedules 4B and 5B list the functional areas of its competencies... In the concurrent list of functions of Schedule 4B are the following matters: Planning and building regulation , Household services (electricity, gas, water and sanitation) , Social services (child – care facilities, health care) , Protective services (firefighting) , Economic activities (tourism, trading regulations) Transport (airports, public transport, ferries, traffic)
Infrastructure (air pollution). Article 118 paragraph 1 of the Italian constitution stipulates that the administrative functions belong to the municipalities except when they are conferred to the provinces, metropolitan cities, regions or the State in order to guarantee uniform practice; the assignment is based on the principle of subsidiary, differentiation and adequacy. In Switzerland Municipalities are responsible for the building of the local streets and squares, water and sewage systems, schools, etc, and have more recently been charged with responsibility for welfare, education, health, town and country planning, environmental protection, sports and recreation, culture, etc. Safety in public places, traffic, civil defense, fire fighting and prevention, urban regulation, historic –artistic heritage, environmental protection, supplies, abattoirs, markets and consumer are some of the major responsibilities of the local government in Spain. In Australia, no state constitution guarantees any particular content for the powers of local government. In each case, the constitution explicitly leaves it to the state legislature to prescribe the powers of local government from time to time. The state constitutions provide surprisingly patch protection for local government against arbitrary dismissal. The general purpose of municipalities in Canada is two –fold: local government exists both as a political mechanism for the pursuit of community objectives and also as a provider of services to local residents.

**Fiscal Capacity and Sources of Revenue of Local Governments**

The most problematic issue in the context of local government is the issue of their fiscal capacity. This table shows that there are hardly any cases in which local government can solely depend on their own revenue base for discharging their responsibilities. The table-3 cleanly provides insights into the fiscal capacity, autonomy to generate resources and competence in terms of spending power.
### Table-3

**Fiscal Capacity and Sources of Revenue of Local Governments**

<table>
<thead>
<tr>
<th>No.</th>
<th>Countries</th>
<th>Fiscal Capacity and Sources of Revenue of Local Governments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>USA</td>
<td>Fiscal autonomy, Sale tax, income tax, property tax main sources of revenue beside federal and state transfer. Intergovernmental transfer tax create dependence of the local government over the state and federal government.</td>
</tr>
<tr>
<td>2</td>
<td>Canada</td>
<td>Local government in Canada does not have any constitutionally based revenue – raising authority. Any authority it does have to raise its own revenues comes by provincial legislation. The property tax is the sole large tax that the local governments can levy. Today, the main sources of local revenue include property tax, user fees, and grants from provincial governments... The remaining revenue comes from intergovernmental transfers.</td>
</tr>
<tr>
<td>3</td>
<td>Australia</td>
<td>According to the Fiscal Constitutional Act, municipalities are allowed to raise taxes and receive revenue. But its details are determined by the Fiscal Adjustment Act which is usually re-enacted every four years in order to adapt it to the current financial situation.</td>
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<tr>
<td>4</td>
<td>Germany</td>
<td>Local government is a significant order of government: it is</td>
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<td></td>
<td>responsible for 22% of total state expenditure, in comparison to 40% by the federal government and 38% by the <em>Landers</em>. Local self – government autonomy includes fiscal autonomy. A municipality has the power to levy trade taxes, although the federal and <em>Landers</em> governments are entitled to a portion of this revenue. Both property tax and local excise taxes fall under the domain of municipalities.</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Spain</td>
<td>The financial powers of the municipalities are defined by the Local Tax Authorities Act. Three sources of revenue – own tax source, shared taxes and intergovernmental transfers, Direct taxes and fees are main revenue sources.</td>
</tr>
<tr>
<td>7</td>
<td>Switzerland</td>
<td>Municipalities have no absolute authority over taxation. The confederation and the canton decide what portion of tax is to be given to the municipalities. At the local level the municipalities rely primarily on direct taxes, property taxes and on rents, indemnities and sales.</td>
</tr>
<tr>
<td>8</td>
<td>Italy</td>
<td>The first paragraph of article 119 states that, municipalities, provinces metropolitan cities and regions have financial autonomy regarding revenues and expenditures. This implies that the regions and local government are self – supporting, meaning that they finance their own functioning, intervention and administrative costs with funds from their own collection (as a rule), except in special circumstances.</td>
</tr>
</tbody>
</table>
The second paragraph of article 119 of the Constitution states that: municipalities, provinces, metropolitan cities and regions have autonomous resources. They establish and implement their own taxes and revenues in harmony with the Constitution and in accordance with the principles of coordination of the public finances and the tax system. They receive a share of the proceeds of State taxes related to their territory.

<table>
<thead>
<tr>
<th>#</th>
<th>Country</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>South Africa</td>
<td>Municipalities have the original power to impose rates on property and surcharges on user fees for services provided. Local government is further entitled to transfers from the national government. Property tax, user charges, tariff, fines etc are the main sources of revenue of the local government.</td>
</tr>
<tr>
<td>10</td>
<td>India</td>
<td>Though constitutional competencies of revenue raising power provided under the article 243 of the constitution, very limited resource and revenue base. Fiscal dependence on state. Inter-government transfer and tied and united grants are the main sources of revenue.</td>
</tr>
</tbody>
</table>

The above table clearly indicates that local governments are hardly autonomous in real sense of the term. There is gap between assigned responsibilities and fiscal capacity of the local government in most of the cases. Local governments are, by and large, dependent on the respective states. There are very cases wherein local
governments are fiscally competent in terms of revenue generation. Germany is one important case in this regard. Local government is a significant order of government in Germany. It is responsible for 22% of total state expenditure, in comparison to 40% by the federal government and 38% by the Land. Local self - government autonomy includes fiscal autonomy. A municipality has the power to levy trade taxes, although the federal and Land governments are entitled to a portion of this revenue. Both property tax and local excise taxes fall under the domain of municipalities. Whereas in case of India local governments are provided constitutional competencies of revenue raising power under the Article 243 of the constitution, in reality they have very limited resource and revenue base. Fiscal dependence on state, inter-government transfer and tied and united grants are the main sources of revenue. This creates a situation of dependence for the local government to the other orders of governments. In most countries, airports, parking, water, sewage, and garbage collection are predominantly financed by fees, whereas social services are primarily financed by from general tax revenues and intergovernmental grants. Infrastructure finance relies on a mix of sources that includes own-source revenues and reserves, charges, fiscal transfers, borrowing, and public-private partnerships. In most countries, significant help is available from higher-level governments in facilitating local government’s access to credit markets. In case of USA State and local governments are required to raise a substantial portion of their resources using their own taxing and charging powers. Fiscal autonomy is important aspect of local government in USA. Sale tax, income tax, property tax ARE main sources of revenue beside federal and state transfer. Intergovernmental transfer, however, creates dependence of the local government over the state and federal government. Besides its constitutional status local
government in South Africa also have important fiscal competences. Municipalities have the original power to impose rates on property and surcharges on user fees for services provided. Local government is further entitled to transfers from the national government. Property tax, user charges, tariff, fines etc are the main sources of revenue of the local government. On contrary to a non centralised model of federalism, both Switzerland and Canada do not provide full fiscal autonomy to the local government. Australia and Italy have clear cut provisions of fiscal autonomy but to what extent this competence is realized is question that still needs to be answered.

The perspectives and issues examined in the preceding sections of the chapter from insights into the perspectives of local governance both in centralized and decentralized structures. Though there can not be a conclusive statement about the local government, it can safely be maintained that in decentralized federal structure there is greater possibility of empowered local governance institutions as power and responsibilities in a federal system should ideally be distributed between the tiers of governments. Competence distribution in federal system is constitutionally defined. However, it is the context which determines the degree and extent of empowerment of the local government in any system whether it is unitary or federal.
Notes


2 For a comprehensive discussion on Good Governance see C.P Barrthwal, *Good Governance in India*, New Delhi: Deep &Deep 2003, The key elements of good governance is elaborately dealt in the book. The analysis is primary based on it.


4 Marina Pinto maps out the debate on this issue. For detailed exposition to the debate see Marina Pinto, *Metropolitan City Governance in India*, New Delhi: Sage Publications, 2000.

5 Marina Pinto maps out the debate on this issue. For detailed exposition to the debate see Marina Pinto, *Metropolitan City Governance in India*, New Delhi: Sage Publications, 2000.

6 Ibid, Page. 30

7 Ibid, Page. 30

8 Ibid, Page. 30

9 John Stuart Mill , Consideration on Representative Government, London : West Strand , Page 38

10 Ibid, Page. 30


13 Ibid, pp.20-21

14 Ibid, pp.20-21


16- Ibid: Page. 36

18 Ibid, pp.23-25

19 Ibid, pp.23-25


22 Ibid. Also see Kumar Suresh, “Constitutional Foundation of Local-Self Government in Federal Polity”, in Bipin Adhikari Edited, *Nepal: Design Option for the New Constitution*, (Kathmandu: Nepal Constitution Foundation, Tribhuvan University Faculty of Law, Supreme Court Bar Association, 2010


