CHAPTER -3

LEGISLATIVE FRAMEWORK OF LOCAL BODIES IN INDIA
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LEGISLATIVE FRAMEWORK OF LOCAL BODIES IN INDIA

Local governments are democratically elected bodies whose jurisdiction is of local level, backed by powers to levy local taxes and to exercise their functions. However, they vary substantially both geographically and demographically.

Bailey (1999) suggests some economic principles for local government’s size and structure, which are as following:

(i) Local government should be as small as possible without forgoing the potential efficiency gains of economies of scale.

(ii) The jurisdictional areas of local governments should, as far as practically possible, be conterminous with the areas benefiting from their provision of services.

(iii) These benefit areas should also match financing area so as to prevent tax exporting.

(iv) Matching of financing and benefit areas may require regional (rather than local) government for the provision of some services.

(v) Benefit areas will have to be periodically reconfigured as service technologies and transport infrastructure change over time.

The type and nature of third layer government in India pose a problem of comparison. There are various types of local bodies which are furthermore diversified. In the present chapter an attempt has been made to have a bird’s eye view of the nature and legal structural features of these different types of governments in different States. But our focus would be mainly on our sample States, i.e. Uttar Pradesh, Tamil Nadu and NCT of Delhi.
3.1 CONSTITUTIONAL PROVISION AS PER 73™ AND 74™ AMENDMENT FOR CONSTITUTION OF RESPECTIVE PRIS AND ULBS

According to Article 243-I of Indian Constitution (Annexure A.1), panchayats are appointed at all the three levels of governments but at intermediate level it is not constituted if population is less than 20 lakhs. All the seats in a panchayat are filled by persons chosen by direct election from territorial constituencies in the panchayat area. Each panchayat area is divided into territorial constituency and the numbers of seats allotted to them are same throughout the panchayat area.

Panchayats are constituted generally for a period of five years from the date appointed for its first meeting. It can also be dissolved as soon as it is being in force. The election to constitute a new panchayat should be completed before the expiration of a period of six months from the date of its dissolution. Persons can be disqualified from the membership of panchayat, if law disqualifies him for the time being in force for the purpose of elections to the legislature of the State. No person is disqualified on the ground that he/she is less than 25 years of age, if he / she has attained 21 years of age. Seats are reserved for scheduled castes (hereafter SC) and scheduled tribes (hereafter ST) in the same proportion, to the total number of seats and the proportion of SC/ST in that panchayat area, out of which 1/3rd are reserved for SC/ST women. From the total seats 1/3rd of the seats are reserved for women (including reserved for SC/ST women). Such seats are allotted by rotation to different constituencies in a panchayat. The offices of the Chairperson in the panchayats are also reserved for SC/ST and women in the same manner (Article-243-D) (Annexure A.1).

Panchayats have all the powers and authority as may be necessary to enable them to function as institutions of self-governments and such law may contain provisions for the devolution of powers and responsibilities upon panchayats at the appropriate level. They have also some powers to prepare plans for economic development and social justice related to matters listed in the XI Schedule. Panchayats have powers to assign, levy and collect taxes, duties, tolls and fees in accordance with such procedure and subject to such limits. Panchayats also get grants-in-aid from the Consolidated Fund of the State.
After the commencement of the Constitution (73rd Amendment) Act 1992, the Governor of State is asked for the creation of State Finance Commission to review the financial position of the panchayats and make recommendations to the Governor regarding, the distribution between the States and the panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State and also for the determination of these taxes, duties, tolls and fees which may be assigned to, or appropriated by, the panchayats, the grants-in-aid to the panchayats from the Consolidated Fund of the State. The SFC has to take measures to improve the financial position of the panchayats.

The legislature of the State may, by law make provisions with respect to the maintenance of accounts by the panchayats and the auditing of such accounts.

The State Election Commission conducts elections of the panchayats. The Governor determines the service tenure and office of the State Election Commissioner. The State Election Commissioner is not removed from his office except in like manner on like grounds by a judge of High Court and the conditions of his services are not varied to his disadvantages after his appointment.

The 73rd Amendment is also applicable to the Union Territories (hereafter UT) and has effect as if the references to the Governor of a State were references to the Administrator (Lt. Governor) of the Union Territory appointed under Article-239 and references to the Legislature or Legislative Assembly of a State were references in relation to UT having a Legislative Assembly. The President may, by public notification direct that the provision is to apply to any UT or part thereof subject to such exception and modifications as he may specify in the notification.

The 73rd Amendment is not applicable to the scheduled areas and the tribal areas referred in clause (2) of Article 244. It is also not applicable to State of Nagaland, Meghalaya and Mizoram, the hilly areas in Manipur, hilly areas of Darjeeling District in West Bengal for which Darjeeling Gorkha Hill Council exists.

In the Constitution, the validity of any law relating to the delimitation of constituencies or the allotment of seats of such constituencies, made under article 243-K are not question in any court. No election to any panchayat are called in question except by an ejection
petition presented to such authority and in such manner as provided for by or under any law made by the legislature of a State.

Similarly for ULBs, according to Article-243 of Indian Constitution, Municipalities are constituted in every State, Nagar Panchayat at transitional area and Municipal Council at small urban area and Municipal Corporation for a larger urban area. The Governor differentiate between the transitional, small and large urban area based on their area, density of the population, revenue generated for local administration, the percentage of employment in non-agricultural activities, the economic importance or such other factors as it may deem fit.

All the seats in a municipality are filled by persons chosen by direct elections from the territorial constituencies in the municipal area and for this purpose each municipal area are divided into wards. The person can represent municipality who have special knowledge or experiences in municipal administration, the Members of Parliament (hereafter MPs) and the Members of Legislature Assembly (hereafter MLAs) of the State representing constituencies, which comprise wholly or partly the municipal area, the members of the council of the State and members of the Legislative council of the State registered as electors within the Municipal area.

The ward committees consisting one or more wards, constituted in municipality having a population of three lakhs or more. The composition of the wards committee and the manner in which the seats are filled in ward committee are provided in the Legislature of a State. The member of a municipality representing a ward within the territorial area of the wards committee is a member of that committee. If the ward committee consists of only one ward, then the member representing that ward is the member. For two or more wards, one of the members representing such wards in the municipality elected by the members of the wards committee is the Chairperson of that committee.

Seats are reserved for SC/ST in the same proportion to the total number of seats and the proportion of SC/ST in the municipality out of which 1/3rd are reserved for SC/ST women. For the total reserved seats 1/3rd of the seats are reserved for women (including reserved for SC/ST women). Such seats are allotted by rotation to different
constituencies in a municipality. The office of the Chairperson in the municipality is also reserved for SC/ST and women in the same proportion.

Every municipality, unless dissolved for the time being under any law in force, continue for five years from the date appointed for its first meeting. The election to constitute a municipality is completed before the expiry of its duration and before the expiration of a period of six months from the date of its dissolution.

A person can be disqualified from the membership of a municipality, if law disqualifies him for the time being in force for the purpose of elections to the legislature of the State. No person is disqualified on the ground that he is less than 25 years of age, if he / she attained 21 years of age.

Municipalities have all the powers and authority as may be necessary to enable them to function as institutions of self-government and same law may contain provisions for the devolution of powers and responsibilities upon panchayats at the appropriate level. They also have some powers to prepare plan for economic development and social justice related to matters listed in XII Schedule of the Indian Constitution.

Municipalities have powers to assign, levy and collect taxes, duties, tolls and fees in accordance with such procedure and subject to such limits. Municipality also gets grants-in-aid from the Consolidated Fund of the State.

The Finance Commissions constituted under Article 243-I also review the financial position of the municipalities and make recommendations regarding:

(i) the distribution between the State and the municipality of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them and allocated between the municipalities at all levels of their respective share.

(ii) the determination of the taxes, duties, tolls and fees, which may be assigned to municipality.

(iii) The grants-in-aid to the municipalities from the consolidated fund of the State, and the measures needed to improve the financial position of the municipality.
and any other matter referred to the Finance Commission by the Governor in the interest of sound finance of the municipalities.

The legislature of a State may, by law make provision with respect to the maintenance of accounts by the municipalities and the auditing of such accounts.

Elections of the municipalities are conducted by the State Election Commissions as referred in the case of panchayats.

The 74th Amendment is also applicable to the Union Territories. The references to the Governor of a State are references to the Administrator (Lt. Governor) of the Union Territory appointed under Article 239 and references to the Legislature or the legislative assembly of a State were references in relation to a Union Territory having a Legislative Assembly, to that Legislative Assembly. The 74th Amendment however, is not applicable to the Scheduled Areas and the Tribal Areas and do not affect the functions and powers of the Darjeeling Gorkha Hill Council constituted under the law for the time being in force for the hill areas of the Darjeeling District of West Bengal.

In every State, a District Planning Committee (hereafter DPC) is constituted at District level to consolidate the plans prepared by the panchayats and the municipalities in the District and to prepare the draft of Development Plan for the District as a whole.

The Legislature of the State, by law, provides the composition for filling of seats for DPC. Not less than 4/5th of the members of such committee can be elected from amongst the elected members of the panchayat and municipality at the District level in the proportion to the ratio between the population of the rural areas and of the urban areas in the District. Functions relating to District Planning and the manner in which the Chairpersons of such Committees is chosen, may be assigned to such Committees.

The DPC prepare draft development plans related to the matters of common interest between the panchayats and the municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environment conservation. The Chairperson of every DPC has to
forward the Developments Plan, as recommended by any such committee, to the Government of the State.

In every Metropolitan area, Metropolitan Planning Committee (hereafter MPC) is constituted to prepare a draft development plan for the Metropolitan area as a whole. The legislature of a State provides the composition and filling of seats for such committee. Not less than 2/3rd of the members of such committee are elected from amongst the elected members of the municipalities and the Chairpersons of the panchayats in the metropolitan area in proportion to the ratio between the population of the municipalities and of the panchayats in that area.

The representation in such Committees of the Government of India (hereafter GoI) and the Government of the State (hereafter GoS) and of such organisations and institutions are made as may be deemed necessary for carrying out the functions assigned to such committee. The Chairperson of such Committee is chosen as provided by the Legislature of the State. Every MPC prepares the Draft Development Plan, regarding to:

1. the plans prepared by the municipalities and the panchayats in the Metropolitan area.
2. the matters relating to the common interest of municipalities and panchayats, including co-ordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environment conservation.
3. the overall objectives and priorities set by the GoI and GoS.
4. the investment made in the Metropolitan area by agencies of the GoI and GoS and other available resources.

The Chairperson of MPC forwards the development plan, as recommended by such committee to the GoI.

In the Constitution the validity of any law relating to the determination of constituencies or the allotment of seats to such constituencies, made or purporting to be made under Article 243-ZA are not called in question in any court. No election to any municipality is
called in question except by an election petition presented to such authority and in such manner as in provided for, by or under any law made by the legislature of a State.

Now we turn to examine the State-wise profile regarding application of these provisions.

3.2 STRUCTURE OF LOCAL GOVERNMENT IN TAMIL NADU

Local Governments in Tamil Nadu State is bifurcated into Urban Local Bodies and Panchayati Raj Institutions. The urban local bodies are again trifurcated into municipal corporation, municipalities and town panchayats. These bodies are horizontal local bodies and not controlled by any other local bodies. They are independent and directly controlled by the State Government only. The PRIs are also trifurcated into three-tiers of governments which are vertical in nature, village panchayat (at the grass root level), panchayat union council (at the intermediate level) and District panchayat (at District / Commissionery level). Out of the total population in Tamil Nadu, PRIs covers 58 per cent and ULBs 42 per cent.

The Government in the case of panchayat union council and District panchayats and the inspector in the case of village panchayat shall have power to fix or alter the number, designation and grades, the salaries, fees and allowance payable to the officer and servant of any village panchayat or panchayat union council or the District panchayat, as the case may be. The Government shall have the power to make rules regarding the authorities who may appoint the officers and servants of panchayats, other than Commissioner and the Chief Executive Officer and the classification, method of recruitment, pay and allowance, discipline and conduct of services of such officers and servants. Any officer or servant of a village panchayat may be transferred to the service of any panchayat union council or any other village panchayat by the inspector, after consulting the Commissioner or the executive authority concerned. The structure of local governments in Tamil Nadu is given in flow chart 3.1 on the next page.
3.2.1 RURAL LOCAL BODIES

Following the introduction of 73rd Constitutional Amendment Act, 1992, which came into force in April 1993, the Tamil Nadu Panchayat Act, 1994 was enacted. In consonance with the amendment, the Tamil Nadu Panchayat Act provides for the three-tier system of rural local self-government with 12,617 village panchayats (hereafter VPs) at the grassroot level, 385 panchayat unions councils (hereafter PUCs) at intermediate level and 28 District panchayats (hereafter DPs) at the District level. Recently, in February 1999, a new panchayat union in Salem District was notified (Yercaud Panchayat Union) with 9 village panchayats.
3.2.1.1 GRAM SABHA

The gram sabha (hereafter GS) is the nucleus of the panchayati raj system under the 1994 Act. It consists of persons registered in the electoral roll relating to the village panchayat, \(\frac{1}{3}\) members form quorum for transacting the business of the gram sabha, but now it is reduced to \(\frac{1}{10}\). Comprised within the area of the said VP, it has to meet thrice a year and at least once in six months. The gaon sabha has to approve the budget proposals and annual plan of the VP and give approval to its annual audit statement of expenditure. Meetings of gaon sabha are presided by the President and in his absence, by the Vice-President and in absence of both, by a member chosen by the members present at the meeting.

3.2.1.2 VILLAGE PANCHAYAT

Village Panchayats are the grass root level democratic institution of local administration. An officer (known as inspector) not below the rank of Collector appointed by the Government, classify and declare every local area comprising a revenue village or villages or any portion of revenue village or contiguous portion of two or more revenue villages as a village panchayat. At present there are 12,617 VPs in Tamil Nadu. The total number of members in a VP varies from 5 to 15 depending upon the size of the VP area. Each panchayat area is divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allocated to it are practicable and same throughout the panchayat area. There is no financial limit. The ward members and the president are elected indirectly by and from amongst the elected ward members. Seats are reserved for SC/ST and women as per Article 243-D, of the Constitution of India.

3.2.1.3 PANCHAYAT UNION COUNCIL

Panchayat Union Councils are the intermediate level of rural local government. At present there are 385 PUCs in the State encompassing 12,617 village panchayats. The 1994 Act empowers the Government to declare a Panchayat Development Block of Panchayat Union, for purpose of the National Extension Services scheme of community development. A PUC is to be formed for each development block.
A PUC consists of the direct by elected members from wards in the panchayat union, MPs and MLAs representing constituencies which comprise wholly or partly of the PUs, Member of Legislative Council (hereafter MLC) of the State who are registered as electors within the panchayat union and such members (1/5th of the total number of the members elected directly for the council of presidents of VPs) elected by the presidents of the VPs. The PUC consists of persons elected from the wards in the PUC at the rate of one member for each 5000 population of PUC area. Seats are reserved for SC/ST and women as per Article 243-D of the Constitution of India. The Committees of PUC (Annexure A.5) include:

1. Appointment committee, for appointment of all posts and approval of pay of these posts under PUC;
2. Agriculture production committee;
3. Education committee; and
4. General-purpose committee.

3.2.1.4 DISTRICT PANCHAYAT

District Panchayats are constituted at the District level. It is having jurisdiction over the entire District excluding that portions which are included in a municipality or town panchayat or industrial town ship or under the authority of a municipal corporation or a cantonment.

District Panchayat are constituted with directly elected members (one member for every 50,000 population). The MPs and MLAs from the District, ex-officio members of the District panchayat council, MLC of States who are registered as electors within the District, are members of the District Panchayats. Seats are reserved for SC/ST and women as per Article 243-D of the Constitution of India. The District Panchayat consists of following committees: (Annexure A.5).

(i) Committee for food and agriculture;
(ii) Industry and labour committee;
(iii) Public works committee;
(iv) Education committee; and
3.2.2 URBAN LOCAL BODIES

3.2.2.1 TOWN PANCHAYATS

A unique feature of a Tamil Nadu's urban local self-government is the existence of town panchayats (hereafter TPs), which are not purely urban but in a transition stage of being converted into an urban local body from a village panchayat. Every local area comprising of a revenue village or villages or any portion of a revenue village and having a population estimated at not less than five thousand and 75 per cent of male working population are engaged in non-agricultural activities, with annual income of not less than 1 lakh of rupees has been classified and declared as town panchayat. There are 635 town panchayats in TN. Analysis of existing position reveals that the majority of them are still predominantly rural in character.

Town Panchayat consists of two persons of 25 years or more having special knowledge or experience in municipal administration, to be nominated by the State Government, but do not have right to vote in the meetings of the municipal council, and the MP's, MLA's and the MLC's of the State who are registered as electors within the area of town panchayat. Seats are reserved for SC/ST and women as per Article 243-D of the Indian Constitution.

3.2.2.2 MUNICIPALITIES

The Governor of the State can declare any small urban area to be a municipality provided the minimum population is 20,000 and 75 per cent of the male working population are engaged in non-agricultural activities and the annual income exceeds Rs 3 lakhs. At present there are 104 municipalities in Tamil Nadu. Municipality is comprised of the President who is the Chairman, elected by those whose names appear in the electoral rolls relating to the municipality and 20-25 councillors (not less than 25 years of age) The term of the Chairman is for five years. The councillors elect one member amongst themselves to be its Vice-Chairman. Two persons (not less than 25 years of age) having special knowledge or experience in municipal administration are nominated
by the State Government, but they do not have right to vote in the meetings of municipality. Seats are reserved for SC/ST and women as per Article 243-T of the Constitution of India.

3.2.2.3 MUNICIPAL CORPORATION

There are at present six Municipal Corporations in Tamil Nadu, having population ranging from 5 to 10 lakhs and having average annual income of over 50 crores. The Chennai Municipal Corporation consists of 155 elected councilors; apart from this, 10 persons (25 years of age) are nominated by the State Government. Seats are reserved for SC/ST and women as per Article 243-T of the Constitution of India.

As provided in the Madras City Municipal Corporation Act, 1919, the State Government may, by notification and subject to such conditions and restrictions, entrust to the corporation, the standing committees, ward committees or any other committee constituted under the Act with such powers and responsibilities with respect to the preparation of plans for economic development and social justice to enable them to carry out the responsibilities conferred upon them including those in relation to the matters listed in the Act.

3.3 STRUCTURE OF LOCAL GOVERNMENT IN UTTAR PRADESH

The structure of Uttar Pradesh seems almost similar to Tamil Nadu except the difference is of nomenclature. Local Government in UP is bifurcated into urban local bodies and panchayati Raj Institutions. ULBs are trifurcated into three horizontal urban local bodies i.e., Nagar Nigam, Nagar Palika Parishad and Nagar Panchayat; these bodies are independent and directly controlled by the State Government. The Panchayati Raj Institutions have a vertical three-tiers of rural governments i.e., Gram Panchayat at the grass root level, Kshetra Panchayat at block level and Zila Parishad at the District level. Out of the total population in Uttar Pradesh, PRIs covers 80 per cent and ULBs 20 per cent.
3.3.1 RURAL LOCAL BODIES

The Provincial Government in Uttar Pradesh (earlier known as United Provinces) enacted the first Village Panchayat Act, 1920, in order to set-up village level bodies with a view to assisting the administration of civil and criminal justice and also to improve sanitation and other common concerns of the village. The Collector of the District appointed the panches of panchayats, set up under the United Provinces District Board Act, 1922. The panchayats of that period were clearly meant to be agencies of the Government. In 1947 when the Congress Government assumed office, it passed the United Provinces Panchayat Act, 1947 and in 1949, gram panchayats were constituted across the State. Subsequently, after about a decade in 1961, the State adopted a three-tier system of PRIs, which were renamed as gram panchayat at village level, kshetra panchayat at the block level and zila panchayat at the District level. The United Provinces Panchayat Act, 1947 and the Kshetra Samiti and Zila Parishad Adhiniyam,
1961 have been amended in 1994, after the promulgation of the 73rd Amendment to the Constitution.

### 3.3.1.1 GRAM SABHA

The State Government shall by notification in the Official Gazette, establish a gram sabha for a village or a group of villages by the name of the village having the largest population. Every person whose name is included in the electoral roll for a gram sabha is a member of the gram sabha. A member of a gram sabha ceases to be such member if the entry relating to that member is deleted from the electoral roll for the gram sabha. The gram sabha have two general meetings every year, one soon after harvesting of the kharif crop and the other soon after harvesting of the rabi crop. The pradhan of the panchayat calls the meeting and also presides over them. 1/5th of the members form the quorum.

### 3.3.1.2 GRAM PANCHAYAT

A gram panchayat (hereafter GP) is established in every panchayat area. The term of gram panchayat is for five years. There is a general election, in the manner prescribed, to constitute or reconstitute gram panchayat. It consists of a Pradhan and 5 to 9 members, depending upon the population. If population is 1000 then 9 members, for population 1000-2000 then 11 members, for population 2000-3000 then 13 members and for population more than 3000 there will be 15 members. For election of gram panchayat every panchayat area are divided into territorial constituencies in such manner that the ratio between the population and the member of seats allotted to it, are same through out the panchayat area. The members of the gram sabha from among themselves elect the Pradhan of a GP. At present there are 58,605 gram panchayats in Uttar Pradesh. Seats are reserved for SC/ST and women as per Article 243-D of the Constitution of India.

**Committees of Gram Panchayat**

Every Gram Panchayat shall constitute the following (Annexure A.5) committees:

(i) ‘Samata Samiti’ performs the functions relating to promotion of economic, social and cultural interests and prevention of social injustice and
exploitation of SC/ST and other backward classes, welfare of women and children and their protection from social injustice and exploitation.

(ii) *Vikas Samiti* performs functions relating to agricultural protection, animal husbandry, rural industry and poverty alleviation programmes.

(iii) *Gram Shiksha Samiti* performs functions relating to promotion and development of primary education.

(iv) *Lok Hit Samiti* for function relating to public health, public works and other functions of the gram panchayat.

### 3.3.1.3 KSHETRA PANCHAYAT

The rural areas of each District are divided into 'Khands' specifying each *khand* by a name and the limits. Kshetra Panchayat (hereafter KP) consists of all *Pradhans* of constituent gram sabha, the Chairman of the Committee for a Town area and the President of the Committee for a Notified Area, between two to five members from co-operative societies, all MPs and MLAs whose constituencies include *khand* and all MPs and MLAs who have their residence in the *khand*. The KP is constituted for five years and seats are reserved for SC/ST and women as per Article 243-D of the Constitution of India.

#### Committees of Kshetra Panchayats

Every Kshetra Panchayat has the following (Annexure A.5) Committees:

(i) *Karya Samiti* (Working Committee);

(ii) *Vitta Evam Vikas Samiti* (Finance and Development Committee);

(iii) *Shiksha Samiti* (Education Committee);

(iv) *Samatas Samiti* (Social Justice Committee)

### 3.3.1.4 NAYAY PANCHAYAT

Nayay Panchayat (hereafter NP) is established for each circle in the District comprising of a number of gram panchayats. The number of members in a NP varies from 10 to 25 and they are known as panchs, who are appointed from the gram panchayat. Out of these, two members are elected for *Sarpanch* and *Sahayak* (assistant) *Sarpanch*. The *Sarpanch* has the power to form benches consisting of five panches each for the
disposal of cases and enquiries coming up before the nayay panchayat. The State
Government may prescribe the Constitution of special benches for the trial of any class
or classes of cases. A NP can impose Rs 5 as a penalty but not exceeding Rs 250. It
has no power to imprison a person for default of payment. For the last 25 years, the NPs
have not been functioning in the State.

3.3.1.5 ZILA PARISHAD

The Zila Parishads (hereafter ZP) are the highest tier of the PRI. It is an autonomous
body exercising jurisdiction over the rural areas in the revenue District of UP and are
responsible for the local self-government in the area. At present, there are 63 Zila
Parishads functioning in the State of UP. The ZP consists of the following members-
Pramukh of all KPs established in the District, specified number of representatives
elected by the kshetra panchayats from their members the presidents of all the municipal
boards in the District, the head of the District co-operative bank, a representatice
of cooperation societies to be chosen as specified by the State Government, the Chairman
of the District-co-operative Federation, all MPs (lok sabha) and MLAs from the District or
part, all MPs (Rajya sabha) and MLAs residing in the District. The term of ZP and
members is for five years. Seats are reserved for SC/ST and women as per Article 243-D
of the Constitution of India. Adhayaksha (Chairman) and Upadhayaksha (Vice
chairman) are elected through secret ballot by the members of ZP. An Adhayaksha who
is not otherwise a member of a parishad is an ex-officio member.

Committees of Zila Panchayat

The ZP acts through several committees, which are as follows and details of these
committees are provided in Annexure A.5:

(i) The Karya Samiti (Executive Committee),
(ii) Vitta Samiti (Finance Committee),
(iii) Shiksha Evam Jan Swasthya Samiti (Education & Health Committee),
(iv) Krishi Udyog Evam Nirman Samiti (Agriculture & Public Works Committee),
(v) Samta Samiti (Social Welfare Committee),
(vi) Niyojan Samiti (Planning Committee).
3.3.2 URBAN LOCAL BODIES

3.3.2.1 NAGAR PANCHAYAT AND MUNICIPALITY

The Governor may, having regard to the population and density of population of any local area, revenue generation, percentage of employment in non-agricultural activities, the economic importance and such other factors as may deem fit, declare any local area having population between one to five lakhs as municipality and nagar panchayat having population between 30,000 to 1 lakh. Nagar Panchayat are for the transitional i.e. transformed from rural to urban areas.

A municipality consists of the President, who is its Chairperson and 25 to 55 elected. In case of Nagar Panchayat elected members varies from 10 to 24. The ex-officio members, comprising all the MPs and the MLAs representing constituencies, which comprise wholly or partly of the municipal area, do not have right to vote in the meeting of the municipality. The ex-officio members, comprising MLCs, nominated by the State Government, in the Official Gazettee, from amongst persons having special knowledge or experience in municipal administration and whose numbers varies from two to three in nagar panchayat and three to five in municipality. Seats are reserved for SC/ST and women as per Article 243-T of the Constitution of India.

3.3.2.2 MUNICIPAL CORPORATION

Municipal Corporations are constituted in every big city, depending on certain factors such as size and the municipal sources. It consists of a Nagar Pramukh and Sabhasads whose number varies from 60 to 110. Nam Nirdishta Sadasyas who are nominated by the State Government from amongst persons having special knowledge or experience in municipal administration and who’s number varies between 5 to 10, but they do not have right to vote in the meetings of the corporation; Paden Sadasyas comprising the MPs and the MLAs representing constituencies comprising the whole or part of the city, who are registered as electors in the city. The Chairperson of the Committees are not the members of the corporation. The Sabhasads are chosen by direct elections from the wards. Seats are reserved for SC/ST and women as per Article 243-T of the Constitution of India.
3.4 STRUCTURE OF LOCAL GOVERNMENT IN THE NATIONAL CAPITAL TERRITORY OF DELHI

Delhi has a unique character because it is quasi-state union territory. The structure of local bodies in NCT of Delhi is described below:

Flow Chart- 3.3: Structure of Local Government In National Capital Territory of Delhi

3.4.1 RURAL LOCAL BODIES

Unlike the States in India, the NCT of Delhi had a single-tier system of Panchayati Raj till February 1961 when an attempt was made to provide for a second tier through an executive notification by the Lt. Governor. This second tier was only a non-statutory and advisory body at the block level in the five blocks. There was also an elected Circle
Panchayat, which performed primarily judicial functions. Thus the Panchayati Raj in Delhi consisted of two statutory institutions and a non-statutory body, namely:

- The gaon sabha and the gaon panchayat which were the democratic institutions at the grassroots level,
- The circle panchayats which performed primarily judicial functions and
- The panchayat samiti as an advisory body at the block level.

These rural local bodies now come under the jurisdiction of the Municipal Corporation of Delhi.

3.4.1.1 GAON SABHA

The gaon sabha comprised of all the eligible voters in the panchayat areas. The sabha elected the panches and also the pradhan who headed the panchayat and presided over the deliberations of both the panchayat and the sabha. While the goan sabha elected the pradhan, the up-pradhan was elected by the goan panchayat from among its members. The term of office of the pradhan, the up-pradhan and the panches was of three years and the period could be extended by two years by the Chief Commissioner (now Lt. Governor). The goan sabha could, at a meeting specially convened for the purpose, remove the pradhan or the up-pradhan by a two-thirds majority of the members present and voting. The government could also remove them for misconduct.

3.4.1.2 PANCHAYAT SAMITI

The Panchayat Samiti is a non-statutory creation, which acted as an advisory body in Delhi. It consisted of the following:

1. Pradhans of the panchayats within the block;
2. MP’s of the constituency of which the block was a part;
3. The Municipal Councillor whose constituency fell within the block;
4. One representative of the Cooperative Marketing Society existing in the block (to be elected by the society);
5. One woman and one *harijan* to be co-opted by the Chairperson of the Block Panchayat Samiti, if it did not have such members already in the samiti;

6. One representative of the Jamia Rural Institute (Jamil Millia Islamia in the case of Shahdara block); and

7. One representative each of the Agricultural Product Market Committees of Narela and Najafgarh (only in these two panchayat samitis);

8. Some members are invitees, such as a representative of the Municipal Zonal Officer of which the block formed a part, the Medical Officer of the primary health centre and the sanitary inspector;

9. Some of the representatives from the functional departments of the Delhi Administration in an advisory capacity are also included like, the Extension Officers of the Departments of Agriculture and Industry of the Delhi Administration, the Co-operative Inspectors and the Panchayat Officer posted in the block;

10. The Block Development Officer acted as Member-Secretary of the Panchayat Samiti.

The *pradhans* of the panchayats of the block elected from among themselves a chairperson. The samiti generally met once in a month and had a term of three years.

### 3.4.1.3 CIRCLE PANCHAYATS

The circle panchayats performs primarily two types of judicial functions: (i) to provide panels of panchayat *adalat* (courts) for the trial of certain types of suits, criminal cases and proceedings specified in the act; and (ii) to perform certain development and related functions. The circle panchayats are elected by the gaon sabhas constituting the unit, in the same manner as the members of the gaon panchayats are elected. The gaon sabhas area with a population of 1,000 or less returne two persons and those with more than 1,000 returne three persons. Each of the circle panchayats electe from among its members a *sarpanch* and a *nabi sarpanch*. The government can remove them for misconduct or other reasons. There are 23 Circle Panchayats in NCT of Delhi as a whole.
The civil jurisdiction of the circle panchayat extends over petty amount suits dealing with respect to description if the value did not exceed Rs 200, a suit for money due on contract immovable property, recovery of moveable property; compensation for wrongfully taking or damaging a moveable property; and damages caused by cattle tresspass.

3.4.2 URBAN LOCAL BODIES

After the adoption of the Constitution of India, the Parliament enacted the Government of Part C State Act, which provided for an elected Legislature Assembly for Delhi with a Council of Ministers, but this arrangement lasted for four years from 1952 to 1956. With the enactment of the Constitution (seventh) Amendment Act, 1956, Delhi ceased to be a Part C State and became a Union Territory under the direct administration of the President of India. In 1966 a new elected body called the Metropolitan Council of Delhi was created by the enactment of Delhi Administration Act, 1966. The Act provided for an Executive Council, which was headed by the Lt. Governor of Delhi and comprised of the Chief Executive Councillor and three Executive Councillors.

The current set up of Delhi was brought about by Article 239-AA of the Constitution inserted by the Constitution (Sixty-ninth Amendment) Act, 1991. By this amendment the name of the Union Territory of Delhi was changed to National Capital Territory of Delhi (hereafter NCT of Delhi). Though it continues as a union territory, it has been endowed with a Legislative Assembly with a Chief Minister and a Council of Ministers with limited powers as distinct from the powers available to them in other States. Matters covered by entries 1, 2 and 18 of the State List of the Seventh Schedule viz., public order, police and land have been kept outside the purview of the Legislative Assembly of NCT of Delhi. Further, even in matters falling in the State List, the powers of Parliament under the Constitution to make laws with respect to any matter for a Union Territory or any part thereof, too has not been diluted in any way. In the event of such powers being exercised, by both, the law made by the Legislative Assembly shall, to the extent it is repugnant to that made by Parliament, be void. The powers of the Council of Ministers to aid and advise the Lt. Governor is confined only to matters with respect to which the Legislative Assembly has powers to make laws and in the case of any difference of opinion between the Lt. Governor and the Council of Ministers on any matter, the Lt.
Governor is authorised to make a reference to the President for decision and to act according to the decision given thereon by the President. Even though the matters governing the local bodies are covered by Entry No.5 of the State List in the Seventh Schedule, the enactment governing the municipalities in Delhi namely the MCD (Amendment) Act, 1993 and NDMC Act, 1994 were nevertheless made by the Parliament, notwithstanding that a Legislative Assembly was already in existence in Delhi. Such a provision may have far reaching consequence on the legal framework within which the municipalities of NCT function, vis-à-vis the Central Government and Government of NCT of Delhi.

3.4.2.1 MUNICIPAL CORPORATION OF DELHI

Delhi Municipal Commission came into existence in the year 1862. At that time, it was confined to an area of two square miles with population of 1.2 lakhs. Later, Delhi Municipal Committee replaced Delhi Municipal Commission. It had 21 nominated members: 6 government officials and the remaining 15 were nominated officials (3 European, 6 Hindus and 6 Muslims). After independence, Delhi Municipal Committee was reconstituted in November 1951, with the total number of members increased from 21 to 63 of which, 50 were elected on the basis of adult franchise. The Delhi Municipal Committee converted to Corporation in 1957. The Delhi Municipal Corporation Act, 1957, was enacted by the Parliament on December 28, 1957. The first corporation came into existence on April 7, 1958 following the elections held in March 1958. Nine of the eleven local bodies and the Delhi District Board (for civic needs of rural area) were merged into it. The Delhi Cantonment Board (hereafter DCB) and New Delhi Municipal Committee (hereafter NDMC) continued to exist as separate entities.

Implementation of the 73rd and 74th Constitution Amendment Acts, 1992 not only necessitated but also dictated major amendments in the Delhi Municipal Corporation Act, 1957. The Delhi Municipal Corporation (amendment) Act 1993, was passed by Parliament on September 17, 1993 and its provisions were enforced from October 1, 1993, incorporating fundamental changes in the composition, functions, governance and administration of the Corporation.
Among all the local bodies in the NCT of Delhi, only Municipal Corporation of Delhi (hereafter MCD) conforms to the norms of the local self-government. It is a unique municipal body in the sense that it discharges the functions of the District Board for rural areas as also other functions, which are normally discharged by the corporations in other States. It is also entrusted with the work of developmental nature, particularly construction of arterial roads and over-bridges, laying of trunk mains for water supply and sewerage, etc throughout the NCT of Delhi. The MCD claims in the memorandum submitted to the first State Finance Commission, that it is the largest municipal authority in the world on the basis of population. The whole area of the NCT of Delhi, except covered by NDMC and DCB, is under the jurisdiction of MCD and its growth and development are the Constitutional responsibility of the Government of India. The Corporation which employees over one lakh people, more than any other local body in the country and nearly 50 per cent more than Government of NCT of Delhi is, thus, distinguished by the scope and magnitude of the duties and obligations discharged by it, in comparison to other municipal corporations. Its special relationship with Government of India has a direct bearing on its financial resources and administrative functioning.

According to the 2001 census, the total population residing in MCD area was 1.25 crores of which 12.50 lakhs was rural. Its general budget is nearly one-third the size of the budget of NCT of Delhi. The city has been growing fast year after year without a commensurate growth in the resources required for meeting the civic needs of the residents as well as a large floating population.

MCD’s larger population lives in semi-urban and rural areas, which are devoid of basic civic amenities. Providing these facilities casts a heavy burden on its resources, as the level demanded is the same as for urban areas. To provide basic amenities like water, electricity and transport, three statutory bodies, were established under the control of Government of India through viz. Delhi Joint Water and Sewage Board Act, 1926 (now named as Delhi Jal Board), Delhi State Electricity Board Act, 1951 (now named as Delhi Vidyut Board which was recently privatized) and Delhi Transport Authority Act, 1952. (now named as Delhi Transport Corporation).

The Administration and day-to-day activities of MCD are looked after by the Municipal Commissioner. The delivery of services as also revenue administration of MCD is
decentralized through a network of 12 Zones directed from the headquarters in the Town Hall. A Deputy Municipal Commissioner heads a Zonal office. Zones are further subdivided into wards, which are in all 134 in number.

The Corporation is composed of the directly elected councillors, on the basis of adult franchise (suffrages) from various wards. Ten Persons, who are not less than 25 years of age and having special knowledge or experience in municipal administration, are nominated by the Administrator and have the right to vote in the meetings of the Corporation. MPs representing constituencies which comprise wholly or partly the area of the Corporation and the MLAs, 1/5th of the MLAs of the NCT of Delhi representing constituencies which comprise wholly or partly the area of the corporation to be nominated by the Speaker of that Legislative Assembly by rotation every year; provided that while nominating such members by rotation the Speaker shall ensure that as far as possible all the members are given an opportunity of being represented in the corporation at least once during the duration of the corporation, are members of the corporation.

3.4.2.2 NEW DELHI MUNICIPAL COUNCIL

The first municipality for the imperial city of Delhi was set up in February 1916 by the name of Raisina Municipal Committee. After nine years, in April 1925, it was upgraded to a second-class municipality under the Punjab Municipal Act. The Committee consisted of ten members and a Chairperson. In September 1925, it was allowed to impose taxes on building. In February 1927, the committee was renamed as New Delhi Municipal Council (NDMC) and in 1932 it was upgraded as first class municipality.

In February 1980, NDMC was superseded and an administrator was entrusted with all powers vested in the Committee. Balakrishnan Committee recommended for reorganization of NDMC. The Punjab Municipal Act, 1911, as applied to NDMC was replaced by the NDMC Act, 1994 and Council was notified on November 10, 1995.

The NDMC has a unique set-up, unique in the sense; it has excluded the modality of electing Municipal Councillors. The Chairperson is appointed by the Central Government in consultation with the Chief Minister of NCT of Delhi, who is an officer of I or above the
rank of Joint Secretary to the Government of India. Out of the other ten members, seven of them are nominated and other three are MLAs of Delhi. Vice-chairperson is also nominated by the Central Government in consultation with the Chief Minister of NCT of Delhi from among the ten members. Among these three nominated members ten are women and one belonging to SCs representing constituencies, which comprise wholly or partly the NDMC. The MPs representing the constituency, which comprise wholly or partly NDMC area are special invitee to the meeting of council without having the right to vote.

3.5 SUMMARY

When the structure of rural and urban local bodies in TN, UP and NCT of Delhi is compared, the structure of TN and UP seems almost similar except the difference in nomenclature. Delhi on the contrary being a former union territory and now a quasi-state government, does have different structure for local bodies. In TN and UP, there are three horizontal urban local bodies and three vertical rural local bodies, whereas, NCT of Delhi is quite different. It has two tier rural local bodies; one at the grass root level and the second tier is only a non-statutory and advisory body at the block level and three horizontal urban bodies i.e., MCD, NDMC and DCB. Among all the local bodies in the NCT of Delhi only MCD conforms to the norms of the local self-government. MCD has also is unique character that it also has rural areas within its jurisdiction. The NDMC has a unique setup, in the sense; it has excluded the modality of electing Municipal Councilors.

Rural local bodies of all these three States consist of gram sabha. The common features of the gram sabha are that, it consists of persons registered in the electoral roll relating to village panchayat and these sabha elect members, Chairman and Vice-Chairman. The quorum for a meeting of gram sabha are 1/3rd in the case of TN and 1/5th in UP and 2/3rd for NCT of Delhi. Gram Sabha meets atleast thrice in a year but not more than six months are intervening between any two meetings in TN. In UP it meets at least twice in the year. Village Panchayat of TN and Gram Panchayat of UP are constituted for five years. Village Panchayat can be constituted in TN with minimum population of 500 or more. Whereas this minimum limit is 1000 in case of gram panchayat of UP. The chairman is known as President in TN and Pradhan in UP and NCT of Delhi. The VPs in
TN has five to fifteen members whereas nine to fifteen in case UP depending upon the population and these members are chosen by direct election. In all these three States reservation of SC/ST and women is in proportion to the population but does not exceed 27 per cent.

In UP, Pradhan of gram panchayat can be removed by a majority of \(\frac{2}{3}\)\(^{rd}\) members of the panchayats present and voting. No motion in the first year is allowed but in case motion fails, it cannot be moved again within one year. In NCT of Delhi also, for removal of Pradhan of Gaon Sabha, \(\frac{2}{3}\)\(^{rd}\) majority of the members present and voting is required.

Intermediate levels of panchayat have different nomenclature. In TN, it is known as PUC, whereas in UP it is called Kshetra Panchayat and in case of NCT of Delhi it is known as Panchayat Samiti. Panchayat Samiti of Delhi is a non-statutory local body that acts as an advisory body. The PUCs are headed by Chairman and KP by Pradhan. The PUC consists of elected members (at the rate of one for 5,000 population), MP's, MLA's and Presidents of village panchayat. The KP consists of elected members (at the rate of 1 for 2,000 population), all Pradhans (ex-officio) MP's and MLA's. In PUC notice by \(\frac{2}{3}\)\(^{rd}\) members and the government after considering the view of the members of the council can remove the Chairman and in KP it may be done by the majority of the elected members. No notice within one year and no fresh notice within one year of rejections can be considered. In both KP and PUC, seats are reserved for SC/ST and women in proportion to their population but not exceeding 27 per cent.

Town Panchayat in Tamil Nadu and Nagar Panchayat in Uttar Pradesh are in a transition stage of being converted into an Urban Local bodies from Village Panchayat, having a population limit of minimum 5,000 and 75 per cent of the male population are engaged in non-agriculture activities in TN and 30,000 to 1 lakhs in case of UP. Town Panchayat (TN) consists of two persons nominated by State Government, MPs, MLAs and MLCs of State. Whereas Nagar Panchayat (UP) consists of ten to twenty four members and ex-officio members, MPs and MLAs representing constituencies and two to three MLCs.

In Tamil Nadu, jurisdiction having minimum population of 20,000 and 75 per cent of male members engaged in non-agricultural activities qualify to be a municipality. In case of
UP, minimum population varies between 1-5 lakhs. Municipalities of Tamil Nadu consist of a Chairman and twenty to twenty-five councillors out of whom one councillor is the Vice Chairman and two members nominated by the State Government. The municipality of UP consists of the Chairperson and twenty-five to fifty-five elected, ex-officio members comprising all the MPs, MLAs representing constituencies and three to five MLCs nominated by the State. NDMC consists of a Chairperson nominated by the Central Government, three MLAs of Delhi, five members nominated by Central Government, two members nominated by Central Government in consultation with the Chief Minister of Delhi, and two MPs. Reservation for SC/ST and women are similar in these municipalities and it is according to Article 243-T of the Constitution of Indian.

Municipal Corporations of TN consists of elected councillors, MPs, MLAs and members nominated by the State Government. Municipal Corporations of UP consists of Nagar Pramukh and Sabhasads whose number varies between 60-110, MP’s and MLA’s of that area and the State Government nominate five to ten members. The Sabhasads are chosen by direct elections. Municipal Corporation of Delhi is composed of the directly elected councilors, on the basis of adult franchise from various wards, ten persons are nominated by the Administrator, all the MP’s of MCD area, the MLA’s and 1/5th MLA’s of the NCT of Delhi nominated by the speaker of that Legislative Assembly. In all the three States, seats are reserved for SC/ST and women candidates in proportion to the population and as per Article 243-T of Indian Constitution.

After legislative framework of the local bodies an examination of the functions assigned to them to follow.