

Polity Class 42

8th December, 2023 at 1:00 PM

BRIEF OVERVIEW OF PREVIOUS CLASS (1:15 PM)

- The faculty gave an overview of Issues related to PRI.

ARC II RECOMMENDATION ON THE PRI (1:19 PM)

- Replace the word may in 243G with the word shall to make the devolution of functions mandatory.
- Local legislators should not be made members of the PRIs.
- Set up Legislative Councils in all states to provide representation to the members of the PRIs.
- State Election Commission should be appointed through a committee consisting of LoP.
- The SFC report and ATR are to be submitted in 6 months.
- Abolish the MPLADS and MLALADS schemes.
- Parastatal bodies should be shut down.
- PRIs should have the right to recruit their personnel and regulate their conditions of service.
- States should adopt the concept of 'activity mapping', wherein each state delineates the responsibilities and roles of the different tiers of the government in respect to the subjects listed in Schedule XI.
- Note: Kindly refer to the handout for more detailed
- *Impact of 73rd CAA on women:*
- Participation of the women in Gram Sabhas has increased
- They have become articulate and conscious of their power.
- Despite their low- literacy level, they have been able to tackle the political and bureaucratic system successfully.
- The concept of Panchayat patis is showing a declining trend.
- They have used their elected authority to address, *critical issues such as education, drinking water facilities, family planning facilities, hygiene & health, quality of healthcare and village development.*
- Research using PRIs has shown that having *female political representation in local governments makes women more likely to come forward and report crimes.*
- Challenges:
- Women are overburdened with family responsibilities and thus, are not able to perform official duties efficiently.

- They feel inhibited to speak especially when they are in large male-dominated assemblies. Those who muster up enough courage and strength to speak receive very little respect or attention.
- It has been observed that women are often invited only to complete the quorum.
- Further, the officials also pay heed to the needs of upper-class women in preference to the needs of poor ones.
- Lack of literacy in women has limited their participation due to restrictive qualifications.
- Problems created due to the rotation policy every 5 years.
- Women are threatened by an increasing number of criminals in politics.
- Women are rarely nominated to the unreserved seats
- Male family members and leaders from the caste groups/community come in the way of the affairs of the Panchayats led by women.
- Note: Kindly refer to the handout provided for holistic coverage of the above topics.

MUNICIPALITIES (1:40 PM)

- According to the Constitution, every municipal area shall be divided into territorial constituencies to be termed 'wards'.
- The electorate in a ward would choose their representative through direct elections who would be termed as a 'ward member'.
- Municipalities of large populations shall be named 'Municipal Corporations' and for relatively smaller urban areas it is known as 'Municipal Councils'
- The area in transition from rural to urban areas is known as 'Nagar Panchayat'
- *The state government will decide such designation based on the following factors:*
- Population of the area
- Density of the population
- Revenue generated for local administration,
- The percentage of employment in non-agricultural activities
- Economic importance or such other factors as he may deem fit, specify by public notification for this Part.
- *In some of the Municipal Areas, some other municipal bodies may also be created for example in the case of:*
- 1. Cantonment Areas:
- A cantonment board should be formed which would be constituted under the Cantonment Act, 2006.

- It shall consist of both elected and nominated members to be provided a term of five years.
- The real head of such a board is the CEO, who is an IDES officer.
- The commander of the military stations is the ex-officio president of the board.
- **2. Industrial Towns:**
- The state government may form a town area committee, to provide municipal services in such areas
- **3. Fast Developing Urban Areas:**
- The state government may notify the setting up of a notified area committee, which shall be a completely nominated body to provide municipal services in the area.
- **Ward Committees:**
- As per article 243S, a ward committee shall be constituted for one or more wards for any municipality having a population of more than 3 lakhs.
- The composition, the manner of election, and the functions of the ward committee shall be determined by the state legislature.
- The chairperson of the ward committee would be the ward member if the committee represents one ward.
- If the committee represents two or more wards the chairperson should be one of the ward members to be chosen by the members of the committee.
- These committees shall perform the function as may be given to them by the state legislature.
- **Composition of the municipality:**
- As per Article 243R, *every municipal body shall consist of the following:*
- Directly elected ward members
- Other members to be determined as per the law of state legislature, which may include:
 - (a) Persons having special knowledge and experience in municipal administration (They have no right to vote in proceedings of Municipal Bodies).
 - (b) MPs and state legislatures
 - (c) Chairperson of Ward Committees
- The mode of choosing the chairperson of a municipal body should be determined by the state legislature.
- There are two models followed in India i.e. '*Bombay' model* and '*Howrah' model*.
- **Bombay model:**

- In the Bombay model - the chairperson is indirectly elected known as 'Mayor' and his position is ceremonial.
- The real power lies in the hands of executives i.e. 'municipal commissioner' who is generally an IAS power.
- Standing committees give inputs or advice to the 'municipal commissioner'
- The members of standing committees are chosen by elected members of the municipal body among themselves.
- **Howarth model:** This model is followed in most of the urbanised cities of the world such as Melbourne, Tokyo, etc.
- Note: Kindly refer to the handouts for more holistic coverage.

ISSUES W.R.T. URBAN LOCAL BODIES (2:32 PM)

- **Financial paucity:** Their chief sources of income are the varied types of taxes, most of which are levied by the union and state governments and, the taxes collected by the urban bodies are not sufficient to cover the expenses of the services provided. Currently, the own revenues generated by the *municipal entities in India are barely 0.15% of the GDP compared to 0.6% in developing countries and 2.1% in developed nations.*
- **Corruption:** The administrative machinery at the disposal of these local bodies is insufficient and ineffective. The staff which is often underpaid indulges in corrupt practices which lead to loss of income.
- **Excessive State Control:** The state governments have the power to supersede and dissolve municipal bodies under certain circumstances. Further, state governments have powers like approval of municipal budgets (except corporations). Even the modified local tax structure needs the government's prior approval and later ratification. States exercise control through accounting and audit systems, etc.
- **Limited Devolution of Functions:** Many states have been slow in transferring functions listed in the Twelfth Schedule to ULBs, impeding their ability to effectively govern urban areas.
- **Unplanned urbanization:** The municipal services have failed to cope with the increasing needs of the population, both qualitatively and quantitatively. The situation is worsening because the rural influx in towns and cities has increasingly converted them into Ghettos.
- **Multiplicity of Agencies:** Usually works are not well allocated among different agencies which causes overlap of authority and responsibility. This further leads to diffused accountability. The existence of parastatal agencies is another problem. For example- Jal Boards, developmental Authority
- **Dilution of Efforts:** Due to multiple layers of planning, administration and resource allocation to tackle deprivations, the efforts are often dispersed in time and space, leading to suboptimal results.

- **Headed by bureaucrats:** The single-purpose agencies are all dominated by bureaucrats, which goes against the basic philosophy of local government. The people's representatives have a secondary role to play.
- **Substandard Personnel and Shortage:** Urban government increasingly needs the professional services of experts.
- **Land titling in urban areas:** A study has reported that most, over 90% by one estimate, of the land titles in India are 'unclear' and land market distortions and unclear land titles cost India around 1.3% of gross domestic product.
- **Limited Capital Expenditure:** Municipalities committed expenditure in the form of establishment expenses, administrative costs and interest and finance charges is rising, but capital expenditure is minimal.
- **Low level of People's Participation:** People's apathy towards participating in the governance system pushes such institutions into a state of complacency and irresponsibility
- **Ecological challenges:** The growth of population and industries presents an unprecedented challenge of ecological degradation and pollution of water, air and land.
- **Recommendations to improve the functioning of ULBs:**
- **Set up a second national commission on urbanization.**
- **Urban local bodies should be made more accountable to their citizens through transparency measures such as open data initiatives and citizen engagement platforms.**
- **Direct election of the mayors on the lines of developed countries.**
- **Municipal Commissioners should be appointed by the state governments in consultation with the mayor.**
- **Involvement of citizens through RWAs and other similar bodies.**
- **Local governments in urban areas should cooperate with other government levels, as well as with civil society and the private sector, to effectively address the challenges facing their communities.**
- **Note: Kindly refer to the handouts provided for better coverage of the above issues.**

District Planning Committee (3:07 PM)

- **As per Article 243 ZD, a District Planning Committee should be constituted to consolidate the plans prepared by panchayats and municipalities.**
- **The state legislature shall make provisions concerning the composition of such committees, the manner of election of members, the manner of election of a chairperson, and its functions.**

- The representative of the members should be in proportion to the population of panchayats and municipalities in such districts.
- Note:
- In respect of DPC, not less than four-fifths of the total number of members of such Committee shall be elected by, and from amongst, the elected members of the Panchayat at the district level and of the Municipalities in the district in proportion to the ratio between the population of the rural areas and of the urban areas in the district respectively.
- Similarly, for Metropolitan committee is two-thirds.

PROBLEMS WITH THE FUNCTIONING OF GRASSROOT PLANNING BODIES (3:16 PM)

- lack of technical experts due to the 4/5th and 2/3rd clauses in the case of DPC and Metropolitan Planning Committees.
- Often the ministers are appointed as chairpersons of these committees. Therefore, sidelining the role of elected representatives.
- Several states have shown undue delay in setting up DPCs.
- In many states, these planning bodies are defunct entities and exist only on paper.
- The committee faced a severe shortage of funds in the absence of which planning is merely a hollow exercise.
- several such bodies have not given adequate importance to rural-urban integration in the preparation of plans.

SCHEDULE AREAS (3:23 PM)

- Scheduled areas under Schedule VI are called autonomous regions/districts.
- These are restricted to the states of Assam, Meghalaya, Mizoram, and Tripura.
- Inclusion or exclusion of any area from Schedule VI shall be done as per the law of parliament amending Schedule VI.
- *Criteria for declaration as a Scheduled Area:*
- The Dhebar Commission (1960), laid down the following criteria for declaring any area as a 'Scheduled Area' under the Fifth Schedule:
 1. The preponderance of tribal population, should not be less than 50 percent.
 2. Compactness and reasonable size of the area.
 3. Underdeveloped nature of the area.
 4. The marked disparity in the economic standard of the people as compared to the neighbouring areas
- Tribal Advisory Council:
- These bodies have been created to provide input to the governor.

- Additionally, they are supposed to advise the governor on welfare measures to be taken for scheduled due to tribes in the state.
- Powers of the governor towards the administration of schedule five areas:
- The functioning, tenure, and conditions for service related to the TAC are supposed to be determined by the governors under his regulation powers.
- In general, the governor has the power to make regulations for the peace and good government of these areas.
- *Apart from this, the Governor has the power to make regulations for specific purposes as well:*
 - 1. To prohibit the transfer of land by or among the members of scheduled tribes (ST) in such areas.
 - 2. To regulate the allotment of land to the members of ST in such areas.
 - 3. To regulate the business of money lending in such areas
- The governor may notify that the law of parliament or state legislature may not apply or may apply with such modifications as mentioned in the notification.
- Any such regulation made by the Governor must be approved by the president to be enforced.
- The governor is supposed to submit a report to the president either annually or otherwise concerning the administration of these areas.
- The governor is supposed to TAC on such matters.
- Issues and challenges associated with the administration of schedule five areas:
 - In most states, TAC has not been constituted or the rules have not been made for their functioning.
 - The governors have failed to utilize their powers to make regulations resulting in the continued exploitation of the tribals thereby defeating the entire purpose of schedule five.
 - The office of the Governor has been reduced to a mere annual report-writing institution to the president rather than a guardian of tribal interest.
 - There exists an ambiguity about the discretionary powers of the governor for Schedule V.
 - The governors have failed to submit a performance report to the president regularly, thereby diminishing the accountability of governors.
 - The enactment of parallel legislation like the PESA Act 1996 and the Forest Rights Act resulted in chaos and confusion.
 - Note: Kindly refer to the Handouts provided for the above topics.

SCHEDULE VI AREAS (3:43 PM)

- Administration of Schedule VI has been made the responsibility of the autonomous district (ADC) and autonomous regional councils (ARC).
- These bodies shall not consist of more than 30 members out of which a maximum of 4 may be nominated by the governor and the rest to be elected based on adult suffrage.
- Powers of ADC & ARC-
 - They have been provided to make laws on a variety of matters including the management of forests, allotment and use of land, regulation of jhum cultivation, and matters such as marriage, divorce, inheritance, social customs, etc.
 - Any such, laws made by ADCs or ARCs should receive the assent of the Governor.
 - They have been also provided administrative powers including setting up of schools etc with the prior approval of the Governor.
 - They have the power to collect revenues as well as to levy and collect taxes for various purposes such as animals, vehicles, etc.
 - Under this schedule, a district or regional fund has to be set up and all the money received from royalty or licensing of mining must be added to it.
 - They can also set up village councils to decide the district between the tribals.
 - One can therefore say, they are like a ministate and have been given powers to manage tribal areas.
 - The law of parliament or the state legislature may not apply or apply with such modification as mentioned in the notification issued by the Governor or President as the case may be.

THE TOPICS FOR THE NEXT CLASS: Schedule VI (CONTINUATION)