Municipal Acts Explainer: Key Functionaries
Cities are important. They are at the forefront of our economy, they provide education and employment opportunities, and they act as hubs of new ideas. The lives of urban Indians are enmeshed with the cities they live in, and yet, we are so under-informed when it comes to the governing structures that ensure their smooth functioning.

The Nagrika Governance Series looks at how our cities are managed through the lens of city governments. They are part of the three-tier system of governance and form the tier closest to the citizens. They are accessible enough to listen to citizens’ complaints and suggestions and are hopefully empowered enough to take action based on them.

This is the second part of a two parts issue on municipal acts. In this article, we look at the important key figures of the municipal governments - the Municipal Authorities. Municipal acts define the roles and responsibilities of the authorities. This is helpful information as it tells us about the figures responsible for the functioning of the local governments.
In Part One of the Municipal Act Explainer, we analysed what municipal acts are and their relationship with the 74th Constitutional Amendment Act (CAA) 1992. We also looked at the variance that exists between states when it comes to municipal acts. While some states have a larger number of municipal acts, most states have just one or two acts. Some states have separate acts for their municipal corporations, while others have a common act to administer all the urban local governments in the state.

In this article, we look at the information that municipal acts contain about the key functionaries in local governments. Municipal acts usually refer to them as Municipal Authorities.

Who are the Municipal Authorities?

All municipal acts enumerate the municipal authorities, who are charged with the execution of the act and see to it that the functions and duties of the municipality are discharged properly. They consist of both elected and administrative officials, and administer the same municipal area but with different roles and responsibilities. Most municipal acts mention the following as the authorities:

- Council: The council of the local government which comprises of all the councillors including the Mayor, Deputy Mayor
- Councillors: They are the ward level elected representatives,
- Mayor: The Mayor or the equivalent position holder (President, Chairperson etc)
- Commissioner: The Commissioner or the equivalent position holder (Chief Executive Office, Chief Municipal Officer etc)
- Committees, if provided for under the act.

Some municipal acts provide for Mayor-in-Council system, which is counted as an authority. Since they are not common, we have not included them here.
The municipal authorities generally have decision making powers. The municipal acts distributes these powers amongst these authorities to avoid concentration of powers in the hands of a few. Usually, the Commissioner or the official equivalent to that position, is the only administrative official given charge as a municipal authority, while the rest of the authorities are either elected representatives like the Mayor, or are bodies composed of them, like standing committees.

Council

Council means the collection of all the councillors, including the Mayor and the Deputy Mayor. Just like the legislative assembly at the state level, this council is ideally the most powerful decision making body at the municipal government. The decisions are deliberated at council meetings and often require getting a majority vote to be passed.
The Municipal Acts give details of how frequently council meetings should be held and the process of organising them.

The Mayor is the head of the council and municipal acts generally denote them as the presiding officer at meetings. The acts also give provisions for having the Deputy Mayor or any other chosen person to be the acting presiding officer, in case the Mayor is absent. The kind of decisions taken by the council depends on the level of decentralisation of the local government.

Some of the most common decision making powers of Councils include:

- In municipal governments where the selection of Mayor and Deputy Mayor is done indirectly, the Council elects them from amongst themselves.
- Councils pass resolution of the municipalities, with the approval of the majority of the council members required for this. The kind of resolutions passed include decisions about welfare programmes and development works at wards.
- Councils can remove Mayors and Deputy Mayors by passing a vote of no-confidence against them. This requires the support of the majority of the Council, though the exact cut off would be given by the respective municipal acts.
- Usually, the annual budget of the municipal governments needs the final approval of the Council, who have the power to veto it or make changes to budget heads. Sometimes, the final approval is given by the state government after the Council has passed it.
- Councils also take decisions regarding the functioning of the municipality, including approving the acquiring of lands and creation of committees.

Councillors

Councillors are the local representatives chosen by the people to represent their wards at the municipal governments. Below are some definitions from selected municipal acts. We can observe that all these definitions are based on the councillors being members of the local governments. It is to be noted that not all municipal acts have explicit definitions for councillors.

**West Bengal Municipal Act, 1993**

‘... a person chosen by direct election from a ward of the Municipality.

**Madhya Pradesh Municipalities Act, 1961**

‘...any person who is legally a member of a Council.’

**Manipur Municipalities Act, 1994**

‘...a member of a Municipal Council or Nagar Panchayat, as the case maybe, elected or appointed...’
The level of information about councillors offered by municipal acts varies from state to state, but some of the common information that they offer are:

- **Number of Councillors**: Municipal acts provide directions regarding the number of councillors that can be part of each municipal government. Generally, this is done with respect to the population size of the municipal areas. For example, Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965 states that a Class ‘A’ municipality - defined as a smaller urban area with a population above 1,00,000 - would have a minimum of 38 councillors. There will be an increase of one councillor for every 8,000 people above 1,00,000 people in the municipal area. This is done to regulate the number of local representatives and to avoid under representation.

- **Election and nomination of Councillors**: Municipal acts provide information regarding how local representatives are elected and their qualification. While separate acts for conducting municipal elections give details about the process of election, the municipal acts lay down the basic qualification and number of councillors to be elected. They also give information about the election process for the position of Mayor and Deputy Mayor and their terms. Some municipal acts provide for nominated councillors. These councillors are not elected by the voters but are nominated either by the municipal government or the state government. The number of such councillors and the criteria for selecting them depends on the provisions of the municipal acts. Generally, nominated members do not have the right to vote at council meetings.

- **Qualifications and disqualifications for councillors**: Municipal Acts mention the clauses that qualify a person to run in municipal elections as a councillor as well as the clauses that disqualifies them from doing so. Generally, the qualifying clauses are limited and include being on the list of voters under the municipal area, and being of a minimum age.

- **Terms of their candidacy**: This refers to the tenure of a person as a councillor at the municipality. This is coterminous with the municipality, which means that the term of a councillor will get over along with the term of the municipality after five years. This is the case even when a councillor joins the municipal government later through by-election due to a vacant seat and doesn’t have the full five years term as others.

- **Reservation of seats**: Reservation of seats for councillors was mandated by the 74th CAA, after which state governments amended their own municipal acts to reflect the mandate. Generally, municipal acts do not prescribe any fixed number
NAGRIKA GOVERNANCE SERIES

or percentage of seats to be reserved for persons belonging to Scheduled Caste (SC) or Scheduled Tribe (ST) categories. The reservation is done on the basis of the proportion of SC and ST population with respect to the total population of the municipal area. Check ‘What Changes Did the 74th CAA Introduce?’ for more details.

Mayors

Mayors are the designated chairpersons of a municipality and hence responsible for chairing and presiding over the official duties of the municipality. The equivalent position holders at the national and state level are the Prime Minister and the Chief Minister respectively. Like them, the Mayor is the chief elected representative at the city level. The Mayor is called by different names in different municipal acts, according to the level of the local government. Some of the names include Chief Councillor and President. For the sake of simplicity, we use the term ‘Mayor’.

Mayors can be either elected directly or indirectly depending on what is provided in the respective Municipal Act. In the former case, the voters elect the Mayor directly. In the latter case, voters elect the councillors, who elect the Mayor amongst themselves. In direct elections, the Mayor is not a councillor and does not represent any particular ward, while in indirect elections, the Mayor is also a councillor and represents their ward in addition to being the Mayor.

The seat of Mayor is reserved in rotation according to rules prescribed in the respective municipal acts. This reservation usually takes place at the state level.

Some of the most common functions and powers of the Mayor include being the presiding head at municipal meetings and heading standing committees or development committees, in states where these exist. Some of the Municipal Acts give greater information regarding the Mayoral functions as compared to others. For example Kerala Municipal Act, 1994 and West Bengal Municipal Act, 1993 define the role of the Mayor (called ‘Chairperson’ and ‘Chairman’ respectively in the acts) in great details. Following are some selected functions of the mayor from each act:

Selected Functions of the Mayor according to the Kerala Municipal Act, 1994:

- The Mayor has control over all administrative powers of the municipality.
- The Mayor supervises the work done by the municipal officers and employees, including those transferred from the State Government.
- The Mayor can suspend any municipal officer and employee, other than the Secretary and the Gazetted Officers, with the approval of the Council.
- The Mayor authorises the payment and repayment of money related to the municipality.
Selected Functions of the Mayor according to the West Bengal Municipal Act, 1993:

- The Mayor is the executive head of the municipality.
- The Mayor presides over the Chairman-in-Council and selects its other members.
- The permission of the Mayor is required for municipal employees in ‘essential services’ to withdraw from their duties.
- The Mayor can discipline officers and employees of the municipalities.

Commissioners

Municipal acts usually provide details regarding the appointment of officials, including the positions, number of officials, and from where to appoint them. Some of the higher level officials frequently mentioned are Municipal Commissioners, Additional Commissioner, Joint Commissioners, Chief Accountant, and Health Officer. The acts generally detail the term of the officials, their duties, the number of leaves they are entitled to, and their salary.

Commissioners are the senior most administrative heads at municipal governments. Generally, for Nagar Panchayats and smaller municipal councils, the equivalent position holder is called by different names such as Chief Executive Officer or Chief Municipal Officer. Municipal acts vest much administrative powers in them and all administrative staff are subordinate to them in authority. Here are some of the powers and duties of Commissioners, or the equivalent position holder, in different acts. For the purpose of simplicity, we use the term ‘Commissioner’.

The powers and duties of Commissioners may include:

- Being responsible for financial and executive administration of the local government.
- Calling for meetings.
- Being present at council meetings.
- All contracts with the local government are undertaken in the name of the Commissioner.
- All fees, funds, and grants to be paid are paid in the name of the Commissioner.
- Carry out resolutions of the local government and submit progress reports

Committees

Municipal Acts give provisions regarding the creation and functioning of committees at the municipalities. The most common types of committees that municipal acts mandate are:

- Standing Committees
- Subject Committees
- Ward Committees
Committee at Municipal Governments

Different types of committees exist at local governments throughout the country. These are three of the most common ones.

Empowered Committees  
- Municipal level committees with executive functions. This means that they take implementable policy decisions regarding matters within their ambit.

Subject Specific Committees  
- They are formed to provide aid with decisions regarding services the local government provides. The decisions they make are executed by other authorities.

Ward Committees  
- Ward committees have the local councillor as the presiding head, and the remaining members are selected from the local ward itself.

What are they?

What are their functions?

Examples:

**Empowered Committees**
Karyakarini Samiti (Lucknow), Water Supply and Sewerage Committee (Ahmedabad), Finance Standing Committee (Agartala)

**Subject Specific Committees**
Street Vending Committee (Mohali), Lighting and Park Committee (Vijayawada), Women and Child Development Committee (Panaji)

**Ward Committees**
Ward Committees in Guwahati, Bhubaneshwar, and Ahmedabad.

The exact committees that the act mandates usually depends on the size of the municipal area and the municipal government. Bigger municipalities with larger populations are mandated to set up ward committees. The municipal acts give instructions for the number of members, how the members are selected, and the duration of the committees, as well as their general functioning. The acts also issue mandates for their regular meetings.
The municipal acts in the country are as varied as the people they govern. They respond to the state-wise needs of the citizen, and frequently to city-specific needs too in case of Municipal Corporation specific acts. The Municipal Authorities are present in all municipal government and are the most important members of the government.

Information regarding the authorities can be learnt from reading municipal acts. They provide us with knowledge about their recruitment or election processes, the conditions of their employability, their salary etc. The municipal acts also give us information about how much power is conferred on the elected and the administrative authorities, giving us some sense regarding the empowerment of the councillors in a particular city.
ABOUT NAGRIKA

KNOWLEDGE ENABLING CITIZENS: FOR AND FROM SMALL CITIES

Nagrika uses knowledge to enable better governance and citizen-led transformation in small cities.

Nagrika helps narrow the information and knowledge gap in the perceived understanding of small cities. We aim to bring small cities to the mainstream of the urban development discourse, contextualise the problems that small cities face and develop context specific solutions for them. To develop pragmatic and feasible solutions we identify the two-way relationship between citizens and their cities using a blend of local and global knowledge.

Team
Pallab Deb
Tarun Sharma
Tanya Singh
Yutika Vora

www.nagrika.org