

# Business Standard

## Needed: Smart laws for smart cities

**Experts favour tweaking current municipal and state laws, rather than an overarching legislative framework**

**Sudipto Dey** May 29, 2016 Last Updated at 21:36 IST



Last year, the central government announced plans to develop 100 'smart cities' over the next five years, with an outlay of Rs 1 lakh crore. However, the mission statement and guidelines from the ministry of urban development are silent on the legal framework to regulate and manage these.

Town planning and legal experts are more in favour of tweaking and strengthening the current municipal and state laws, rather than any over-arching legislative framework to govern these changed cities.

In the guidelines, the core infrastructure elements of a smart city cover urban mobility, water and electricity supply, sanitation, housing, e-governance, health and education, security and sustainability, all bounded and harnessed by the power of information technology (IT). "Considering the number of sub-sectors involved in creating a smart city, it is not possible to bring in an exclusive statute," says Padma Priya J, director, Grant Thornton India. The practical approach is to make amendments to individual statues, depending on a city's vision, the smart city

plan, and the implementation framework, she adds.

Experts say that given the massive use of IT in the delivery and management of core infrastructure services, the volume of citizen data generated in a smart city is expected to grow exponentially over time. "The current IT Act might not give adequate protection to the citizen data that smart cities will generate," says Vaibhav Parikh, partner, Nishith Desai Associates.

One also has to watch out for cyber-criminal activities knocking on the IT platform of a smart city project. "There is need to put in place an appropriate legal framework to address such activities in the smart city eco-system," says Pavan Duggal, advocate, Supreme Court, and an expert in cyber law. Smart cities have to ensure that they comply with the National Cyber Security Policy, 2013.

Legal experts say the entire smart city system is based on electronic contracts. These are granted legality under the IT Act but has to appropriately look at the documentations and evidentiary proof of the contracts. Similarly, any smart governance initiative has to be based on the parameters on electronic governance as enshrined under the Act.

The operational framework of any smart city project is guided by the Companies Act. It envisages setting up of a Special Purpose Vehicle (SPV), registered under the Companies Act, which will plan, appraise, approve, release funds, implement, manage, operate, monitor and evaluate any smart city development. The SPV, incorporated at the city level, will have the state or Union Territory and the urban local body as promoters, having 50:50 equity shareholding.

Legal and town planning experts point out that existing urban local bodies might need to look at ways to increase their sources of revenue to manage the multiple stakeholders within a smart city system. These would necessitate amendments to the existing law on municipalities and municipal corporations, among others. "Any change in the system can be brought about by changing the relevant clauses in various Acts, such as those that relate to property tax, rent control, licences, user charges," says Padma Priya.

To facilitate quicker decisions in a smart city system, the officers managing an SPV and the local bodies would need additional powers. This would need amendments in existing laws. Also, under the current regulatory framework in most cities, the same government agency combines the roles of a regulator, service provider and policy maker. "Separation of ownership, regulation and service provisions is necessary to bring in better efficiency, governance and sustainability in a smart city," says Priya. This would necessitate changes in the legal and regulatory framework.

Under the Smart Cities Mission, cities could transition to being 'smart' through improvement in existing infrastructure (retrofitting), a city renewal plan (re-development) or through city extensions (new development). There could also be pan-city initiatives to use smart solutions, covering larger parts of the city. Town planning experts say these would necessitate changes in the existing urban town planning laws and regulations, including land use plans and building bye-laws.

As most projects in a smart city are going to be run on a public-private partnership mode, there are questions over access to citizen data and its security under current laws. "One is not sure if they would get covered under the Right to Information Act," says Priya.

## CHALLENGES IN FRAMING A LEGISLATIVE FRAMEWORK

- Amendments may be necessary in the Municipalities Act, and the Municipal Corporations Act, to bring about changes in the way sources of revenue are recognised
- Considering the number of sub-sectors that are involved in creating smart cities, it is not possible to bring in an exclusive statute for smart cities
- There are no laws that govern smart cities in a comprehensive way
- Change the current regulatory framework in cities that combine the roles of a government agency - that of a regulator, service provider and policy maker
- Stricter data protection and privacy laws to safeguard citizen from cyber-attacks and unauthorised use of data