

The State of India's Pollution Control Boards

Working Paper Series

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EXECUTIVE
SUMMARY

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Background

Deteriorating air quality in India, particularly in the Indo-Gangetic Plain (IGP), has received significant attention from the media and public in recent years. There is mounting evidence of the harmful effects of short and long-term exposure to high levels of air pollution experienced in the IGP region on people's health, and thus the economy (1–6). The shortcomings of the current regulatory and institutional framework in arresting air pollution are actively debated by many from the civil society, and the judiciary. In particular, the State Pollution Control Boards (SPCBs) and their counterparts in union territories, the Pollution Control Committees (PCCs), the frontline pollution control agencies, have come under fire for failing to effectively deliver on their mandate of curbing air pollution (7–9).

Although SPCBs were set up under the Water (Prevention and Control of Pollution) Act 1974 [the Water Act], over time their mandate has expanded significantly beyond water-related issues. They are responsible for regulating air and noise pollution, waste (including municipal, bio-medical, electronic, and hazardous wastes), regulating the use of plastic, among other tasks. Empowered under the Water Act, the Air (Prevention and Control of Pollution) Act 1981, and the Environment (Protection) Act 1986, the Boards perform four broad functions under these various sets of rules:

1. Granting and managing consents (to establish and operate industry)
2. Setting standards for emissions and effluents
3. Monitoring compliance of industry with these standards
4. Enforcing these standards through an escalating series of actions

Over the years, several studies commissioned by the government, as well as some undertaken independently, have revealed that the SPCBs do not have the resources and capacity to perform the functions assigned to them under various laws. The lack of capacity in SPCBs has been attributed to various factors including inadequate sanctioned strength of personnel, high numbers of vacancies especially in technical positions, absence of proper training, lack of pollution monitoring and abatement equipment, absence of technically competent leadership, protracted enforcement mechanisms, insufficient funds and ineffectual spending (7,8,10–14). These problems have persisted for many years, yet they remain unresolved.

These challenges are, perhaps, particularly salient in the IGP, an inter-connected airshed with meteorology and geography playing a key role in transporting and maintaining high levels of exposure to air pollution all the way from Punjab in the west to West Bengal in the east, especially in winter. With a plurality of sources emitting a range of pollutants, regulating air pollution here is an extremely difficult and complex task, with discourse often devolving into political blame games around the origins of air pollution beyond state boundaries. The mandate of managing this plurality of sources and emissions falls on the SPCBs/PCCs primarily. In addition to their fundamental “command-and-control” approach to pollution management while regulating industrial sources, SPCBs/PCCs also have the responsibility of coordinating with other sectors and departments.

The evolving policy regime around air quality has also substantially expanded the convening and coordinating roles of the SPCBs and has introduced newer frameworks for them to adapt to. For example, under the National Clean Air Program (NCAP) and the Fifteenth Finance Commission (XVFC) grants to Urban Local Bodies (ULBs), SPCBs play a key technical advisory role in formulating and implementing action plans for non-attainment cities. Under the Commission for Air Quality Management in National Capital Region and Adjoining Areas (CAQM), the first effort by the government to regulate air quality at an airshed level, there is greater emphasis on the SPCBs in the region to deliver on coordinated action across state boundaries.

Given that they are a determinative factor for the effective implementation of India's pollution control laws, what is the ability and capacity of the SPCBs and PCCs to perform their statutory functions? What is the role of the Board? Does the leadership of the SPCBs and PCCs in the IGP have the necessary expertise? Are there an adequate number of technically qualified people staffing these agencies? Are they fiscally healthy and in a position to be able to utilise the funds at their disposal effectively?

In *'The State of India's Pollution Control Boards'*, we explore some of these key institutional issues through a series of working papers:

- 1) **"Who has a seat at the table?"** – Examines the composition of the Boards and their ability to engage in policymaking and take decisions in furtherance of their statutory goals;
- 2) **"Who is at the helm?"** – Analyses the qualifications of the Board's leadership - the Chairperson and the Member Secretary, the length and stability of their tenure, and whether they are well-placed to guide the Boards' functioning; and
- 3) **"Who is in the field?"** – Evaluates the adequacy of the Boards' capacity – particularly technical capacity – to perform critical functions like consent granting, inspection, monitoring, and enforcement.
- 4) **"Are they in the green?"** – Analyses the fiscal health and autonomy of the Boards, examines revenue collection and spending patterns, and evaluates their capacity to effectively utilise finances.

Methods

To facilitate this work, we collected a range of information from nine SPCBs (Punjab, Haryana, Uttarakhand, Uttar Pradesh, Bihar, Jharkhand, Chhattisgarh and West Bengal) and the Delhi Pollution Control Committee through applications filed under the Right to Information Act, 2005 (RTIs) in August-September 2021, and March-April 2022. This included data on the following:

- Composition of the Board, presence of non-official members, industry, academia and air quality experts
- Tenure and qualifications of their last five Chairpersons and member secretaries, whether their role was full-time or part-time, recruitment rules for these positions
- Current sanctioned strength and vacancies across technical positions, attempts to fill vacancies, number of consents issued
- Revenue and expenditure information for three financial years: 2018-19, 2019-20 and 2020-21

To understand the functioning of the SPCBs/PCCs and their perception of their capacities and constraints, we conducted a series of semi-structured, key informant interviews. We spoke to 20 current and former senior leadership of the CPCB and SPCBs (Chairpersons, Member Secretaries, Environmental Engineers, and Legal Officers) across the IGP states. Interviewee responses were anonymised, and States were coded to ensure participant confidentiality. These data were supplemented by a review of previously published reports on SPCB functioning, and data that are available on various government websites.

Key Takeaways

Based on our analyses of the RTI responses received, and data collected through interviews and online research, the following key takeaways emerged, which are further detailed in the three working papers referred to above:

BOARD MEMBERSHIP AND COMPOSITION

1. Representation on the Boards largely comprises government departments, public sector units and other industry representatives. There is limited representation from civil society (including those working on environmental and labour issues), academia, public health, and the medical community. (Figure 1)
2. The statutory requirement of having at least two Board members who have knowledge of and experience in air quality management is not met by most Boards. The three Boards which claim that two members have the necessary qualifications have not provided any evidence to substantiate this claim.
3. The considerable representation of potentially polluting industry and government departments such as municipal corporations on the Boards raises questions about conflict of interests.
4. There is little substantive discussion on air pollution control or planning in Board meetings, which are largely procedural in nature.

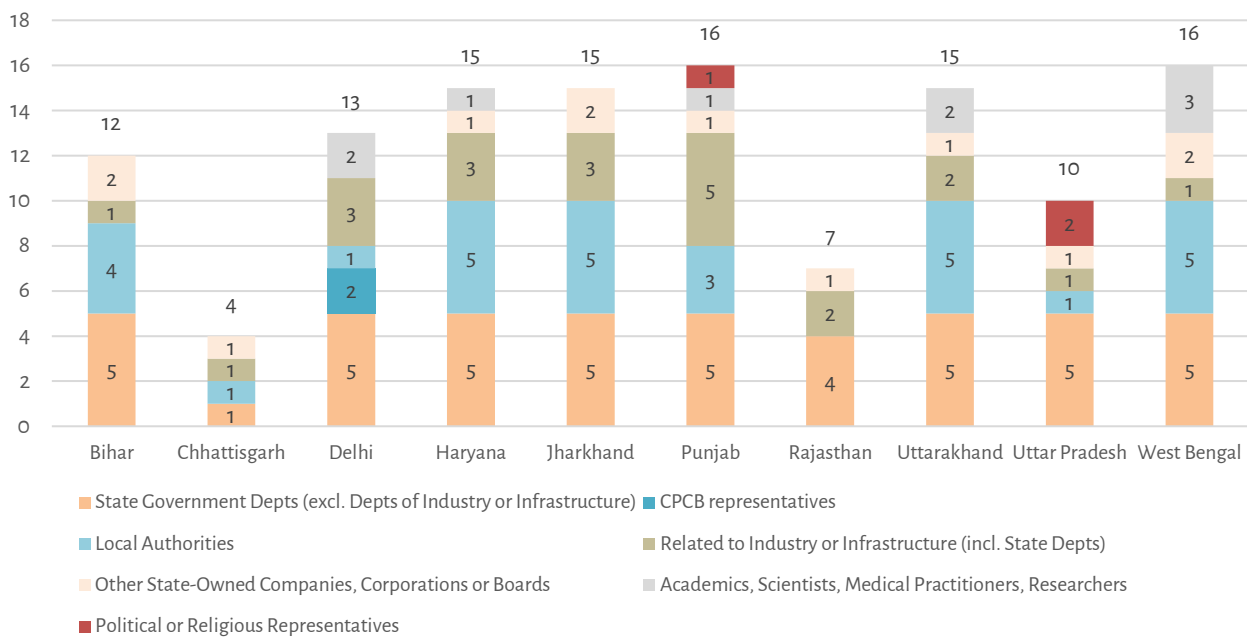


Figure 1. A snapshot of representation on State Pollution Control Boards

LEADERSHIP

1. There is a clear preference for candidates who are, or have been, in government service for the roles of Chairperson and Member Secretary. This is most unfortunate as it comes at the cost of talented and experienced individuals from the academia or the private sector who could lead the Boards.
2. The Chairperson's post is not full-time in several IGP states. Chairpersons often hold additional charge of other government departments. At least three Member Secretaries in the IGP hold additional charge of other government departments. These individuals are thus not in a position to focus fully on the SPCB's expansive mandate and functioning.
3. Many interviewees believed that Chairpersons would be better equipped if they were in-service civil servants, with the Member Secretary being from a "technical background". The preference for civil servants in leadership roles is based on the belief that such a person would be able to ensure better inter-departmental coordination and align the SPCB's work with State government priorities. The latter reason is a serious cause for concern as SPCBs are intended to be autonomous bodies.
4. The tenure of Chairpersons and Member Secretaries varies widely despite most states having a fixed-term tenure for both positions. Several Chairpersons and Member Secretaries have held their posts for less than a year (Figure 2). Average tenures across the last five Chairpersons are greater than three years in two states only because of massive outliers who have held posts for as many as seven years. Brief tenures make it challenging to effectively conceptualize and deliver on long-term plans for pollution mitigation as most of their time is spent coming up to speed with the demands of their role.

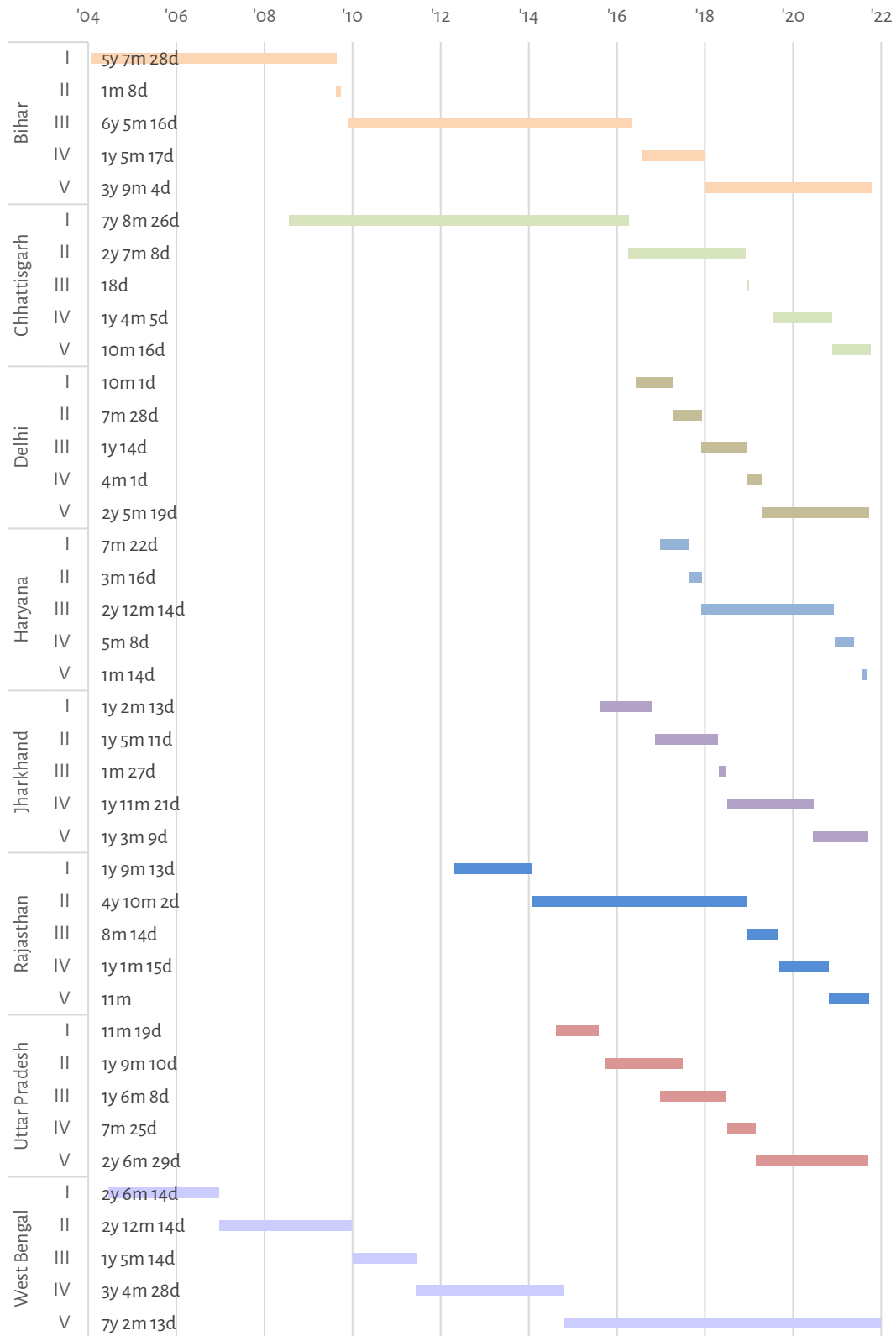


Figure 2. Tenures of previous 5 Chairpersons at 8 SPCBs/PCC. Coloured bars indicate the duration of tenures, while the data labels indicate the length of tenures in years, months and days. Tenure end date for those in position V has been considered to be the date of filing the RTI response by the SPCB/PCC and not their last day in office.

STAFF

1. Sanctioned posts and (in particular) occupied posts have not kept up with both increasing levels of industrialization in states and increasing responsibilities for the SPCB staff. At least 40% posts are vacant across 9 SPCBs/PCC. Vacancy levels are as high as 84% in Jharkhand.
2. 7 out of 8 SPCBs have at least 40% vacancies in the technical staff category (Figure 3). The high vacancy levels impede the regular functioning of Boards.
3. 4 of 7 states have less than a day available per occupied post of environmental engineer (EE) to process a single consent application. None of the states have more than 2 days available (Figure 4).
4. Regional offices (ROs) also suffer from a shortage of staff. Some ROs only have 1 or 2 EEs and have had to issue as many as 800 consents per EE annually. On average, each EE at an RO issued 200 consents in 2020-21.
5. Legal cells in most Boards have sanctioned strength of 5 or less, and vacancies are very high in most Boards.
6. Interview respondents indicated a number of factors that have affected their ability to hire and retain technical talent including pay and benefits, options for career growth, political pressure, and the lack of defined service rules.
7. Despite the staffing crisis across the Boards, half of them either did not provide any response to the query on efforts made to hire, or perhaps more worryingly, stated that no advertisements had been posted recently.

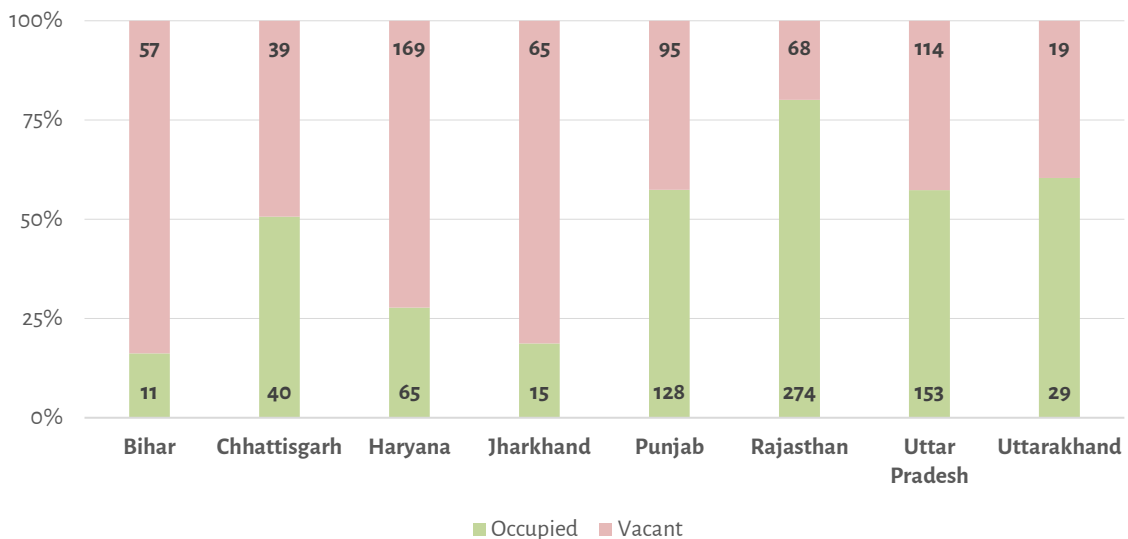


Figure 3. Snapshot of technical posts (environmental engineers + scientists) across 8 SPCBs¹

¹ West Bengal, Delhi and Bihar did not provide the required information in response to our RTI queries with data. For Bihar SPCB, information from our interview notes has been used.

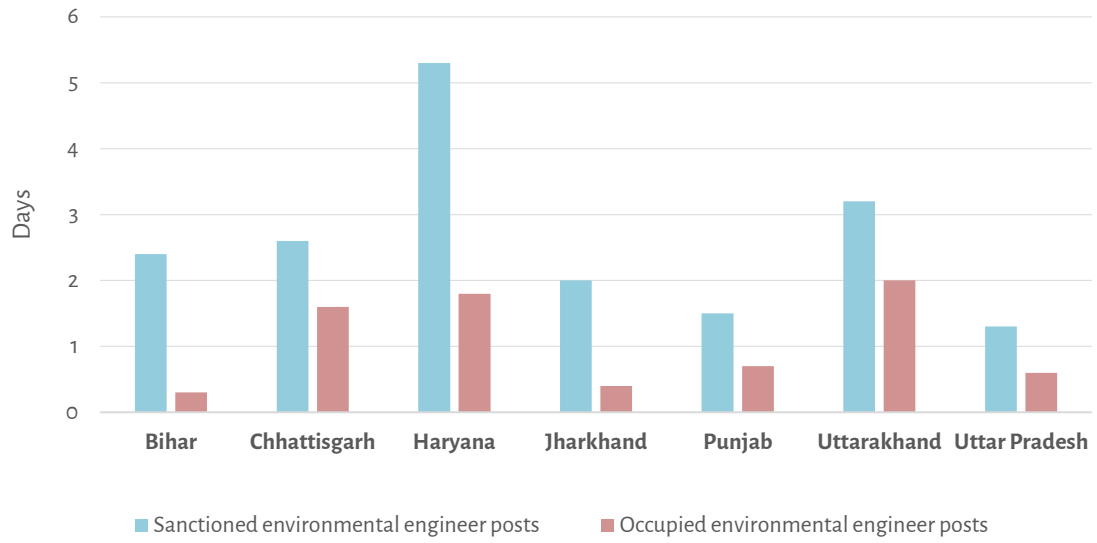


Figure 4. Number of days available per environmental engineer post to process one consent application

FINANCES

1. A majority of the Boards we examined turned a surplus for each of the 3 years for which we reviewed their finances, with many struggling to spend the entirety of the amount they collect through fees and other sources (Figure 5).
2. The surplus generated each year by SPCBs/PCCs are directed toward short and medium-term fixed deposits rather than investments in manpower, infrastructure and equipment. Overall, we conservatively estimate that Rs. 2893 crores are invested in fixed deposits by the 10 SPCBs/PCCs as of 31 March 2021. The interest earned from these investments plays a significant role in the fiscal health of the SPCBs.
3. For all but two states, there was no financial support provided by state governments to their respective SPCBs/PCC. Central Government funding is sparse, and is tied funding linked to existing centrally sponsored schemes (Figure 6).
4. The lack of consistent untied funding from the government leads to Boards depending on funds raised independently through consent fees and interest accrued from investments. This creates additional concerns as the majority of Board staff then tend to focus only on revenue generating consent management functions.
5. Pay and allowances for staff comprise over half of SPCB/PCC expenditure, with some skewing upwards of 80%. Despite the poor state of infrastructure in many States, spending on new infrastructure including lab facilities is low, with some exceptions. Spending on research, development, and studies comprise a tiny fraction of overall expenditure across the board (Figure 7).

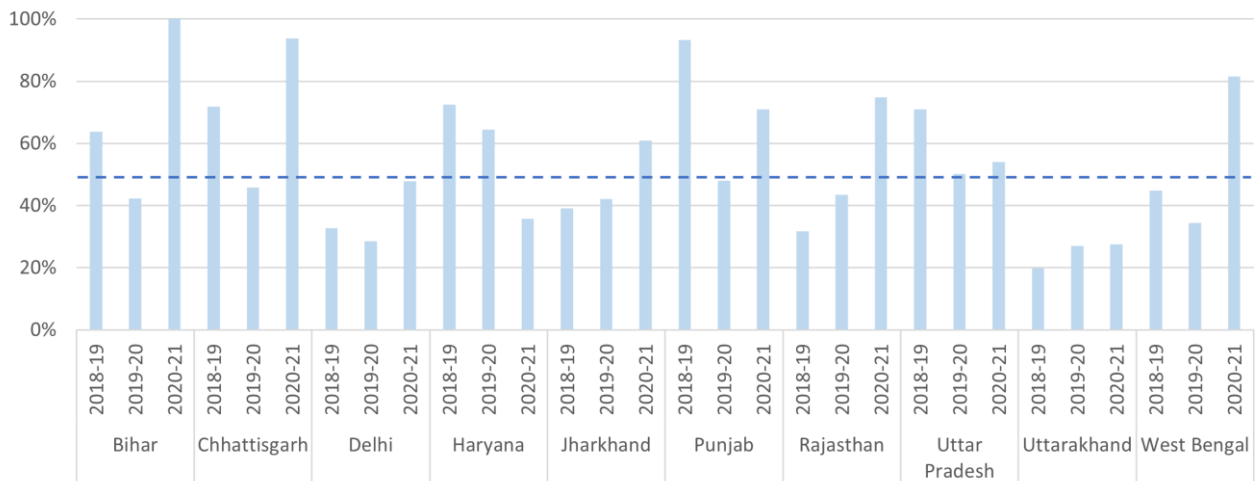


Figure 5 Fund Utilisation Rate across the Boards

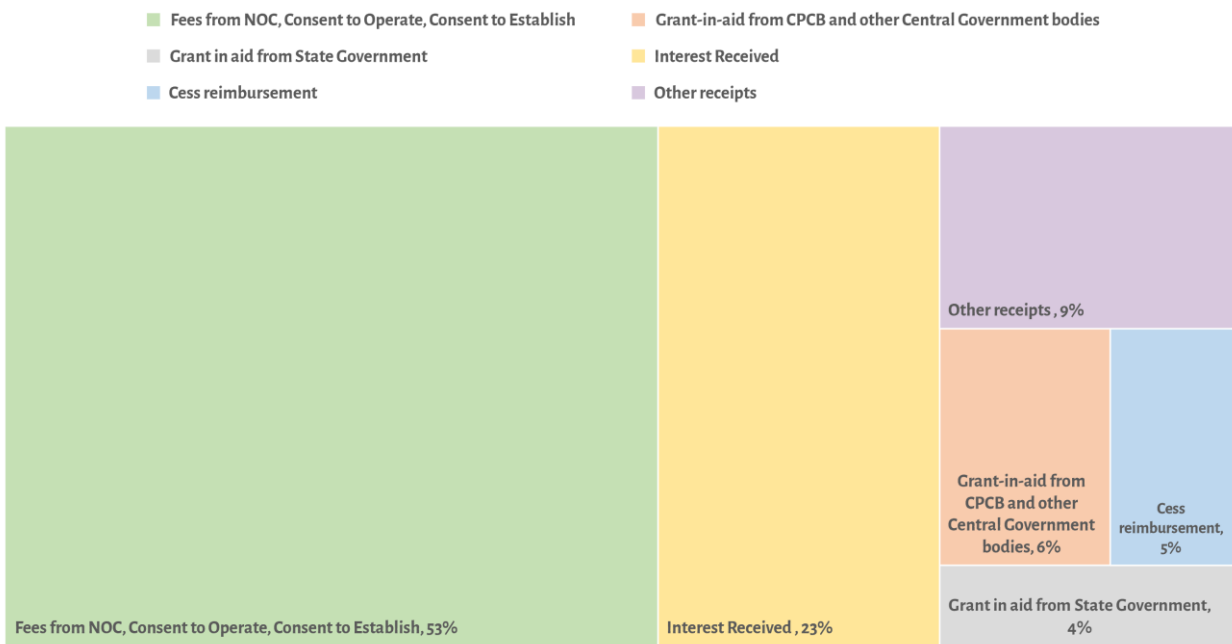


Figure 6 Contribution of Revenue Sources aggregated across 9 SPCBs & DPCC from FY19 to FY21

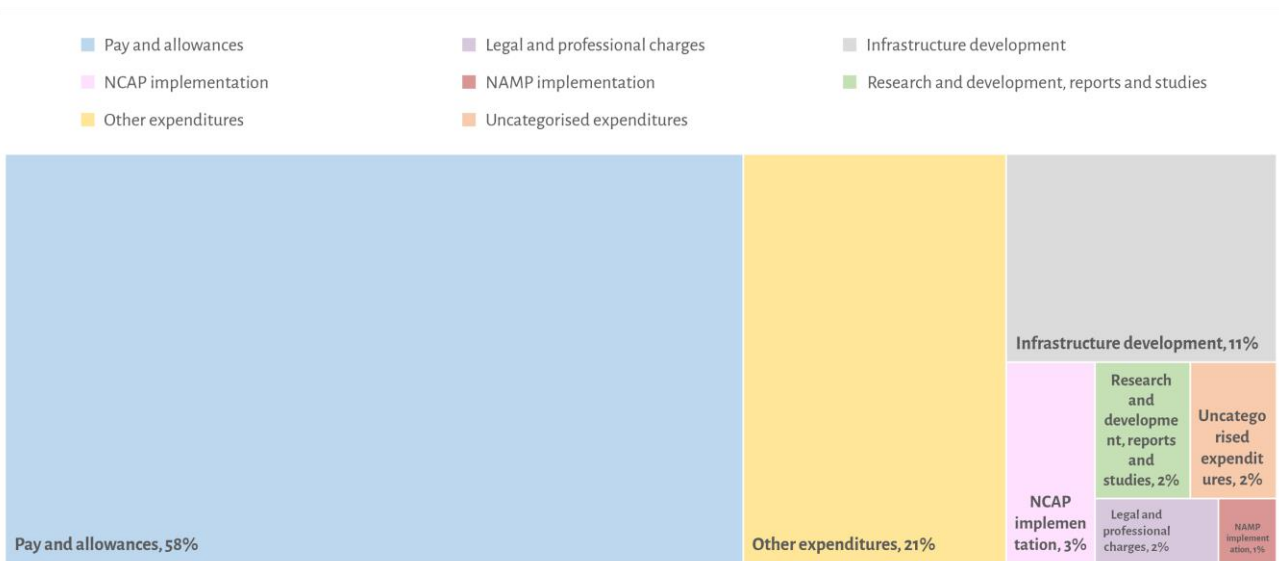


Figure 7 Contribution of Expenditure Sources aggregated across 9 SPCBs & DPCC from FY19 to FY21

Conclusion

In this series of papers, we have sought to highlight institutional issues that have been identified time and again as a significant constraint to effective environmental management by Parliamentary standing committees, academic and civil society organizations, and the government. Air pollution in the IGP is an ongoing public health emergency and the distinct lack of progress made in strengthening our frontline environmental regulators is a symptom of executive apathy.

The challenges faced by SPCBs in executing routine tasks has been substantially exacerbated by India's rapid industrialization and their expanded mandate, now encompassing not just air and water pollution but a range of other environmental concerns. The expanded mandate, coupled with the staff crunch, has meant that regulatory scrutiny of polluting sources is much less than desirable. At the same time, SPCBs have become increasingly reliant on technological innovations such as the Continuous Emissions Monitoring Systems (CEMS) and mechanisms of *de facto* self-regulation such as industry-hired third-party inspectors as means to foster more efficient processing of consent applications. However, these mechanisms are yet to succeed on the ground for a number of reasons.

Given the nature of air pollution, we need impactful inter-sectoral coordination to drive preventive and mitigation actions. There is also a growing interest in deploying complex market-based mechanisms such as emissions trading schemes nationwide. All this requires robust institutional frameworks for convening, implementation, evaluation, and accountability. In a context where SPCBs are flailing in their attempts to fulfil their basic mandate, how can we expect them to upskill and empower themselves sufficiently to convene and facilitate far more complex regulatory processes such as market-based mechanisms?

The Central Government has established ambitious targets for improvement in air quality through the National Clean Air Program. Achieving these targets however requires promptly addressing the antecedents of effective environmental regulation - competent regulators with sufficient capacity and financial autonomy. Responsibility for this also lies with state governments to ensure that the SPCBs are adequately funded to carry out their mandated tasks, and that their autonomy enshrined in the law is manifest in practice. As it stands, while plans may well be ambitious, given the state of India's pollution control boards, they may well remain just on paper unless these lacunae are urgently addressed.

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