



URBAN LOCAL GOVERNMENT IN INDIA

The Genesis of 74th Constitution Amendment

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Abstract

Urban local governance in India has continued to be an important area of research for a long time. The governmental apathy towards urban local government did not create a conducive environment for the institution to grow and acquire credibility as an institution till the advent of 74th Constitution Amendment Act in 1992. Since the enactment of the Amendment Act, sincere efforts have been made to strengthen the local bodies and rejuvenate the institutional capacity by introducing desired reforms and giving them Constitutional status. The compulsion on state government to treat them with due care has begun to yield results. However, despite significant changes, urban local bodies continue to function as the extended arm of the state government. This needs to change if we really want their empowerment.



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Urbanization in India has been accelerating since independence mainly due to mixed economy as an initial factor which gave rise to the development of the private sector in the country. Rapid urbanization in India in the last century as well as in the 21st century has been pushing people to migrate to urban areas. The comparative jump in the rate of urbanization in India since the last century has been sharply noticed. According to 1901 census only 11.4% people lived in the urban areas. The data of 2001 census puts it to 28.53% while the last census held in 2011 puts the figure to 31.16%. In 2017, the rate of urbanization increased to 34% according to the World Bank. According to Allan Chirare, an urban expert, 'Urbanization, if not managed appropriately by a local government, can become a disaster for a bigger city like Mumbai in India'.

While exploring the genesis of the term 'urban' and 'urbanization' in the historical context, it is speculated that a particular prosperous and efficient village attracted the attention of other less prosperous tribes who then attached themselves to the successful settlement. This process called urbanization, gave rise to the densely populated places which gradually came to be known as 'urban' areas and were later termed as towns, cities and city regions according to the degree of concentration of the population and the extent of geographical area it occupied. Although, urbanization began in ancient Mesopotamia in the Uruk Period (4300-3100 BCE),

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the dramatic increase in population, and change in population distribution took place during the first Industrial Revolution which lasted from the mid-18th century to about 1830 and was mostly confined to Britain. In order to deal with this demographic upsurge and its accompanying challenges and necessities, there was a need for an authority to determine and execute measures within a specified and restricted area. This authority which was responsible for governance at the local level, gradually came to be known as 'local government' in an urban setting. Since then, some form of local institution of governance is regarded as essential and inseparable aspect of the structure of a government. Subsequently, this governmental narrative became an acceptable practice all over the world. No government, even in modern context, can declare itself to be fully adequate in the absence of a local government irrespective of its nomenclature and form of functionality.

The system of local government can be traced in every nation as part of its governing mechanism or constitutional structure. It has been regarded as quite conventional however, to think of Great Britain as point of genesis for local self-government where a democratically elected council was required to function at the local level with an active support from a professional civil service duly appointed for the purpose. However, the history of local government in England has been of gradual change and evolution since the Middle Ages. Its concept spans back into the history of Anglo-Saxon England of 700-1066 AD period. In terms of connectivity, certain aspects of its modern system have been directly derived from this period. The popular notion in the West that towns and the countryside should be administered separately seems to have come from this historical narrative. The sudden and dramatic increase in human habitation and change in the pattern of population distribution in particular areas caused by the Industrial Revolution, as mentioned earlier, created a necessity to bring about systematic reform in local governance in England. This however, was achieved gradually throughout the 19th century. Much of the 20th century was used for a genuine search for a perfect and idealised system of local government. The more glaring and characteristic feature of American local government is the extreme autonomy enjoyed by American municipal structures at the grassroot level. However, local government in the United States which is referred as governmental jurisdictions below the level of state may operate under their own charters or under general law or a mix of both and enjoy control over such matters as zoning issues, property taxes and public parks. While local government in France has a long history of centralisation, the past 20 years have brought about some radical changes. Despite its

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complexity, the new system aims to bring French local government closer to the people. It has now been given far greater autonomy in decision making by sharing administrative and budgetary tasks between central and local authorities. Moreover, the French local government revolves around the prefects who are political administrators. The Swiss pattern of local government is unique in a sense that it not only determines and defines the sphere of local autonomy but accords them residual powers which the national constitution does not specifically grant to the authorities at the federal level. The federal constitution thus protects the autonomy of municipalities within the framework set out by the cantonal law.

India, traditionally recognised as an agrarian economy, has enjoyed the longest tradition of village self-government in the world, the notion of which was actually derived from the idea of self-sufficient and self-governing village communities. In the time of Rig-Veda (1700 BC), evidences suggest the existence of self-governing village bodies called 'Sabhas' which rendered useful services and empowering environment to the communities at the local level. However, with the passage of time, these bodies came to be known as 'panchayats' which actually meant council of five persons. These panchayats were regarded as functional institutions of grassroots governance in almost every Indian village. Their foundation was so much rooted in the tradition and the cultural values that they endured the rise and fall of powerful empires in the ancient times and in the recent past. They have even withstood the criticality of the highly structured system of the present times. The term local self-government even in terms of history of its nomenclature, implying the transfer of power to the lowest rung of political order, has some historical connectivity with the tradition of panchayats. This popular practice of local self-empowerment, later became the basis of democratic decentralisation in rural and urban areas of the country. This system further encouraged the institutionalisation of participation of even the grassroots level of society in the process of administration. However, despite the traditional significance, the modern system of local self-government in India is largely a British creation as the term originated when the country was under British administration and did not enjoy any self-government either at the central or state levels. However, when the decision was finally taken by the British Government to include the Indian nationals in administering the local affairs, it actually suggested a symbolic self-government for the people. However, in the present context the term has lost its significance as the nation has attained self-government both at the central and the state levels. Even in the

Constitution of India, the use of the term 'local government' has been preferred by the members of the Constituent Assembly.

The origin of municipal government in India can be traced back to 1687 A.D. with the establishment of a municipal corporation in the city of Madras. In post-independence India, systematic process was evolved and attempts were made to recognise the significance of local self-government. Jawaharlal Nehru, the first Prime Minister of India emphasised its administrative relevance and termed it as the basis of true democracy. In order to legally strengthen the concept, article 40 of the Constitution of India directs the State to organise and empower the Village Panchayats. Recognising its importance at the national level, article 246 of the Constitution of India gives special powers to state legislatures to make suitable laws to strengthen the local bodies and realise the fruits of democracy at the grassroot level. However, despite these efforts to strengthen and empower the institutions of local self-government, urban local bodies continued to be in a state of neglect and stagnation for several decades in India. As compared to significant changes in the rural local government, the development of urban local government had been slow and disheartening. As the Constitution allotted local government to the State List, the urban local bodies were stifled and mistreated by the respective states. With an elaborate state-control on the functioning of municipal authorities, they could hardly be treated as embodiments of self-government. Their financial dependency on the state government did not allow them to emerge as institutions of empowerment for a long time. The increasing criticism of the status of urban local government in India and the concern expressed over its neglect and apathy, finally led to some active discussion and deliberations and some rethinking on the structure and functioning of the urban local bodies. Academics and urban experts came forward with innovative ideas to re-energise these bodies and make them truly functional as institutions of self-government. They were emphatic and unanimous in suggesting the Central Government to bring about policy changes and devise a plan that would lead to both decentralisation and empowerment of the urban local bodies in India. In 1989, the Central Government led by Rajiv Gandhi for the first time took active interest in this direction and emphasised the need to rejuvenate grassroot democracy in the country. The Central Government held and facilitated wide-ranging consultations with the elected members of the municipalities in different parts of the country. A number of seminars and conferences were held with municipal officers, chief secretaries, ministers of local self-government and chief ministers. The theme of the entire deliberative exercise was to evolve an

appropriate constitutional mechanism to provide a constitutional base to urban local bodies in India. As a result, the Union Government led by Rajiv Gandhi introduced in the Lok Sabha the Constitution 65th Amendment Bill, 1989 which however could not be passed and lapsed due to dissolution of the Lok Sabha. Subsequently, the other bill with almost the same content and intention better known as 74th Amendment was introduced in 1991 and was passed in December, 1992. Hence, the idea of decentralization and the debate to empower urban local bodies finally, culminated in the enactment of the Constitution (74th Amendment) Act, 1992. The primary objective of the central legislation was to facilitate the democratic decentralisation at the grassroot level and strengthen and empower municipal authorities so that they can acquire the institutional capability to deal with the problems created by the processes of urbanization and tremendous growth in the urban areas. The idea behind the legislative initiative was to have a constitutional amendment to accord constitutional status to the urban local government so that they could directly derive powers from the Constitution itself and enjoy security of tenure in terms of uninterrupted existence for five years and work as autonomous unit of local government.

The other objective of the amendment was to create a conducive political environment to enable all sections of society to associate with local administration in the country. Attempts were made to ensure that the local administration becomes more accountable to people. Planning which was so far the domain of the central government came to be initiated at the grassroot level. The purpose of this central legislation was also to give a direct message to the state governments to re-frame their administrative powers and stop treating local bodies as extended arms of their governments and devolve more and more functional and financial powers to the local units of governance.

The Constitution 74th Amendment Act further provides for a uniform system of urban local government in the country. Women have been guaranteed due representation in the urban local bodies. The Act also provides for the constitution of a Finance Commission every five year to review and reserve the resources to strengthen the urban and rural local bodies financially. The Act has also provided for a District Planning Committee to consolidate the plans prepared by the 'Panchayats' and urban local bodies in the district and to prepare a draft developmental plan for the integrated development of the district. There is provision for a Metropolitan Planning Committee for metro cities. The Constitution Amendment has also introduced a separate schedule enumerating a number of functions for the urban local bodies.

The Constitution (74th Amendment) Act, 1992 provides to constitute three kinds of urban local bodies, viz; (a) 'Nagar Panchayat' for a transitional area; (b) 'Municipal Council' for a smaller urban area; and (c) 'Municipal Corporation' for a larger urban area. The classification of the mentioned areas would be specified by the Governor of the State on the basis of population, density, the revenue generated, the percentage of employment in non-agricultural activities, the economic importance or such other factors as he deems fit.

In terms of composition, the Act provides that all seats need to be filled by persons chosen by direct election. For this purpose, the city area will be divided into electoral wards. However, with a view to give a municipality a representative character, persons having special knowledge or experience in municipal administration, Members of Parliament and State Legislature whose constituencies comprise wholly or partly the municipal area, the members of Rajya Sabha and the State Legislative Council registered as electors within the area and the chairpersons of the different committees can be included in the council. Many states have however, not included the higher level of politicians.

In order to make the municipal government more accessible and responsive to the common citizens, the Act provides for the creation of Ward Committee in the cities having population of 3 lakhs or more. The Act has also made it mandatory to complete the election before the expiry of the normal duration, i.e. five years. In case of dissolved municipality, the election must be held within six months. The Act also provides for the elections to be conducted by the State Election Commission.

The Constitution of India has provided for the representative parliamentary democracy in the country. The 74th Constitution Amendment Act intends to take care of this provision at the grassroot level itself. It provides for reservation of seats for the Scheduled Castes and Scheduled Tribes based on their ratio in the local population of the area. The Act promotes representation of women to the extent of not less than one third of the total number. Even the seats of chairpersons and mayors have been reserved for members of the above categories. This decision has certainly helped in bringing about a social change in the country. As the role of the urban local bodies was curbed and undermined in the past, the Act attempts to reconsolidate and strengthen them. It empowers the municipalities to prepare the plans for economic development and social justice. They are now expected to perform 18 types of functions as mentioned in the 12th Schedule of the Constitution.

As the urban local bodies were facing a resource crunch, they were not in position to even maintain basic civic services. Performance of developmental function was even more difficult. In order to strengthen them financially the Act provides for constituting a Finance Commission every five years which would review their financial position and make appropriate recommendations to the Governor in regard to the distribution of taxes between the state and the local bodies. It would also suggest different measures to improve and enhance financial position of the urban local bodies. However, recommendations of the State Finance Commission are not mandatory on the state government.

The 74th Constitution Amendment has been quite historic in promoting a local approach to the idea of planning which has generally been treated as sectoral in nature. It provides for constituting a District planning Committee which will consolidate the plans prepared by both the rural as well as urban local bodies and in turn finalise a draft development plan for the district as a whole. Not less than 4/5th of the total members would be elected by and from amongst the elected members of both the local governments in proportion to the ratio of the population of the rural and of the urban areas in the district.

The 74th Constitution Amendment also provides for constituting in every metropolitan area which has a population of 10 lakhs or more, a Metropolitan Planning Committee (MPC) to prepare a draft development plan for the area. Not less than 2/3rd of the members of the MPC shall be elected by and from amongst the elected members of the municipalities and chairpersons of the rural bodies falling in the metropolitan area in proportion to the ratio between the population covered by both types of local governments. Several States however, have not made these committees operational.

Thus, the Constitution (74th Amendment) Act, 1992, which has enormous features of commendable nature as described above was finalised by P.V. Narasimha Rao Government and came to be enforced nationally on 1st June, 1993. However, as the urban local self-government along with the rural local bodies is a state subject as specified by the Constitution of India, all states were legally required to ratify the Constitution (74th Amendment), Act, 1992 and bring all their existing relevant legislations in conformity with that of the 74th Constitutional Amendment provisions by May 31st, 1994. The post 74th Amendment scenario in the urban local government context however has not been very encouraging. There is a need to critically assess the implementation process and reframe certain aspects which have prevented the act to achieve its objectives.

References:

- Bardhan, Pranab, (2006), Decentralisation & Local Governance in Developing Countries, Oxford University Press, New Delhi.*
- Baud, I.S.A. & Dewit J., (2008), New Forms of Urban Local Government in India, Sage Publications, New Delhi.*
- Constitution (74th Amendment) Act, 1992, Part IX-A, Government Press Mumbai*
- Friedrich Carl J., (1968), Constitutional Government and Democracy: Theory and Practice in Europe and America, Oxford Press, London.*
- Jha, Gangadhar, (1993), 'The Seventy-Fourth Constitution Amendment and the Empowerment of Municipal Government: A Critique', Urban India, Vol. No. XV, Pages 68-78, July*