

THE VALUES OF LOCAL SELF-GOVERNANCE

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A Gram Sabha meeting held at Chettiyapatti village near Dindigul in Tamil Nadu. | Photo Credit: Special Arrangement

In December 1992, Parliament passed the [73rd and 74th constitutional amendments](#), which instituted panchayats and municipalities, respectively. These amendments mandated that State governments constitute panchayats (at the village, block and district levels) and municipalities (in the form of municipal corporations, municipal councils and nagar panchayats) in every region. They sought to institute a third-tier of governance in the federal framework through the devolution of functions, funds, and functionaries to local governments.

Since local governments seldom derive their authority directly from the Constitution, India's constitutional reforms for decentralisation are exceptional. But despite these reforms, municipal governments are often seen to be ineffective in addressing even the most basic needs of citizens, such as reliable water supply and walkable footpaths. Urban residents tend to blame "corrupt" local politicians for these civic woes.

However, as we celebrate the 30th anniversary of these reforms, it is important to ask fundamental questions: Why should local governments be empowered? Why are they weak despite constitutional reforms? How can the idea of local self-governance be revived?

Understanding the normative basis of local self-governance is important since this also informs the institutional form local governments take. Local self-governance is linked to the idea of subsidiarity and is typically grounded on two broad arguments. First, it provides for efficient provision of public goods since governments with smaller jurisdictions can provide services as per the preferences of their residents. Second, it promotes deeper democracy since governments that are closer to the people allow citizens to engage with public affairs more easily.

India's decentralisation agenda is also arguably driven by these values. The 73rd and 74th amendments require States to vest panchayats and municipalities with the authority "to enable them to function as institutions of self-government", including the powers to prepare and implement plans and schemes for economic development and social justice. They also mandate the regular conduct of local elections, provide for the reservation of seats for Scheduled Castes, Scheduled Tribes and women in local councils, and institute participative forums like gram sabhas in panchayats and ward committees in municipal corporations. Hence, the core values

that the amendments sought to entrench are that of deepening local democracy and devolving functions for meeting the ends of economic development and social justice. Debates on the role and responsibilities of local governments should be foregrounded by these normative values which have found expression, at least in some regard, in the Constitution.

Despite the constitutional promise of local self-governance, local governments, especially municipalities, operate with limited autonomy and authority. Their frailty may be attributed to the inherent limitations of the 74th amendment and the failure of State governments and courts to implement and interpret the amendment in letter and spirit. Limitations include the discretion given to the States regarding devolution of powers and levying of local taxes. State governments are reluctant to implement the 74th amendment as cities are economic powerhouses and controlling urban land is important for financing State governments and political parties.

The courts have also mostly interpreted the 74th amendment narrowly, allowing State governments to retain their control over cities. In this context, the Patna High Court's recent order declaring some provisions of the Bihar Municipal (Amendment) Act, 2021 as unconstitutional is path-breaking. The 2021 amendment had transferred the powers of appointment of Grade C and D employees of municipalities from the Empowered Standing Committee of the municipality to the State government-controlled Directorate of Municipal Administration. The court held that these provisions violate the 74th Amendment since the recentralization of power and the weakening of self-governance "are incompatible with the idea, intent and design of the constitutional amendment".

This judgment is unprecedented since it tested State municipal laws against the letter and spirit of the 74th Amendment and can potentially reset the position of local governments in India's federal framework. As India is undergoing a centralising shift in its politics, economy, and culture, there's also been a renewed assertion of federalism. However, this assertion of State rights is hardly articulated as value-based normative claims. If we unpack the intellectual arguments for federalism, many of them are also applicable for local self-governance. Hence, debates on federalism should include larger discussions on how power should be divided and shared between governments at the Union, State, and local level since local governments are, normatively and structurally, an integral part of the federal framework of the Constitution.

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