Beyond 74th Amendment – Alternative Models of Decentralisation and Participatory Governance at the Fourth-Tier

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Abstract

Decentralisation and civic engagement mechanisms suggested under the 74th Constitution Amendment Act had unfolded unevenly across the states. While national initiatives like the Ward Committee and Area Sabha have faced state-level implementation challenges, new models of participation have emerged through entities like Resident Welfare Associations and Self Help Groups, which do not require any changes in the formal political structure. This chapter provides a critique of 74CAA by discussing the model of participatory neighbourhood governance and gender empowerment being implemented through Slum Dwellers Associations under the Jaga Mission in Odisha. The chapter argues that state-level variations in socio-economic factors and urbanisation levels impact their approach towards decentralisation and participation. It is necessary to take into consideration such aspects while re-envisioning the 74 CAA.

Keywords: decentralisation, citizen engagement, neighbourhood governance, Slum Dwellers Association

Introduction

In the history of democratic decentralisation in India, the 74th Constitution Amendment Act (74CAA) was a significant milestone, that officially recognised urban local bodies (ULB) as the third tier in the government hierarchy. Along with official recognition, the Act sought to empower these bodies with adequate resources, responsibilities, and decision-making authority to carry out their functions effectively (Government of India, 2023). The overarching aim of the 74CAA was to reduce the gap between the state and the people, by encouraging a more participatory and inclusive form of governance (Sivaramakrishnan, 2007). However, the scope for civic engagement envisaged under the 74CAA faced implementation challenges. This paper provides a critique of the 74CAA by discussing alternative models of participatory neighbourhood governance that have emerged in

India in recent decades, with a particular focus on the Jaga Mission launched by Odisha in 2018, which has put in place an innovative institutional arrangement to expand the scope for participation by the marginalised sections of society in urban governance.

In federal democratic political systems, state decentralisation and participatory governance are seen as conceptually interrelated and mutually reinforcing. Indeed, in public administration literature, the dispersal of authority from a centralised state is traditionally associated with the deepening of democracy that facilitates the empowerment of people through deliberative decision-making at the grassroots level (Faguet, 2014; Gaventa, 2004; Marks & Hooghe, 2004). Moreover, participatory decision-making is considered a lynchpin of Good governance, and decentralisation is a necessary step to reduce poverty and improve developmental outcomes (Grindle, 2004; Nadeem, 2016). According to Faguet (2014), there are two broad motivations behind governments that decide to decentralise. The first motivation is to improve the delivery of public services. It is assumed that decentralisation would bring in greater efficiency in public services and thus improve key developmental indicators like education, health care, etc. The second motivation is to improve the overall quality of governance through participatory decision-making. There are assumptions that greater engagement of people and public monitoring will lead to greater accountability at the lower levels of the administration (Faguet, 2014). Additionally, it is suggested that the dispersion of decision-making would make governance more inclusive and better able to meet the needs of local communities, as opposed to centralised top-down systems, which are often more distant from people and where decision-making becomes much more abstract. Bardhan (2002), however, sounds a more cautionary note by emphasising the importance of the local environment. He suggests that decentralisation per se neither necessarily leads to better governance nor improves participation for all sections of society. In developing countries, local governments encounter significant capacity deficiencies. Also, elite capture comes in the way of marginalised people accessing state institutions.

It is also pertinent to note here that there is no single way of achieving decentralisation. While the term decentralisation generally implies a transfer of responsibility from the upper tiers of government to the lower tiers, the literature recognises three broad types of decentralisation: political, administrative, and fiscal (Work, 2002). There are also four distinct patterns: devolution, deconcentration, delegation, and divestment. The

application of decentralisation in practice depends upon the policy goals of the governing regime, state administrative capacity and other such contextual factors.

The decentralisation model envisaged under the 74CAA entails significant devolution of political authority (with distinct electoral terms under 243 U) administrative functions (under 243 W), and fiscal responsibilities (under 243 Y) from the state governments to the ULBs. Since the 74CAA was enacted three decades back, there have been several rounds of elections to the ULB, and many cities (e.g. Bhubaneswar, Bhopal, Lucknow) have directly elected Mayors. However, executive power over municipal governments in most states is still held by the Municipal Commissioners / Chief Executive Officers, not the elected representatives Although, in Kerala, the mayors have executive authority, and the state is widely recognised as the front runner in decentralisation, the autonomy of the ULBs is substantially restricted due to the strings attached to the functions divested (B. Jacob & Jacob, 2021). By and large, autonomy enjoyed by the cities is far less than what was envisaged under the 74CAA, and as put by Shivramakrishnan (2007), urban India suffers from a 'decentralisation deficit.' According to Raghunandan (2023), instead of devolution as envisaged under the 74CAA, what happened on the ground was deconcentration. The state governments continue to treat the ULBs as subordinate units for the delivery of service provisions, rather than as autonomous units of local self-governance.

A particular casualty in this regard is the scope for participatory civic engagement as we discuss in the next section. Urban governance is untenable when citizens cannot communicate with first-mile politicians. They are unable to make suggestions and seek redressal and accountability in what should be a self-correcting mechanism. Further, if there is no state capacity, citizens feel that they are wasting their time as officials are not delivering.

Ward Committee

The institutional platform for citizen engagement under the 74 CAA falls significantly short compared to its rural counterpart. Under the 73rd Constitution Amendment Act, every person in the rural areas is a member of Gram Sabha, irrespective of the size of the settlement. This citizenship right is not available to vast numbers of urban residents. The 74CAA sought

to provide a forum for direct engagement between people and the municipal government at the fourth tier, through the formation of ward committees – as wards are the lowest administrative units in urban governance. A ward committee meeting is where citizens of the ward can meet the corporator and all the officials that are working in the ward, in person to address local issues, monitor expenses, and make plans for the future.

Article 243S mandates the state legislatures to constitute Ward Committees in ULBs having a population of three lakhs and above. Residents of smaller urban areas are thus at a distinct disadvantage due to the three-lakh population limit. The state legislators also have the flexibility to combine several wards while forming Ward Committees. For example, in Chennai, ward committees are constituted zone-wise. While the city has 200 Wards, there are only 15 Ward Committees (Greater Chennai Corporation, 2023). As individual wards in big cities frequently have populations greater than thirty-four thousand, combining several Wards increases the distance between people and their municipal governments.

Kerala's Municipal Act (1994) sought to address some of the deficiencies of the 74CAA by specifying that all ULBs having a population of 1 lakh constitute a Ward Committee in each Ward; for smaller ULBs to constitute Ward Sabhas (L. M. Jacob & Mukundan, 2021). Ward Committees are headed by elected councillors and include a few representative members and key stakeholders within the ward like the Resident Welfare Association (RWA) and Neighbourhood Groups (NHG). The Ward Sabhas has a structure like that of the Gram Sabhas, with all residents being members. Over the past three decades, the culture of civic participation has taken deep roots in Kerala.

Like Kerala, in Bangalore well scope for citizen participation has expanded and ward committee meetings are becoming more regular following the enactment of the Bruhat Bengaluru Mahanagara Palike (BBMP) Act (2020). The new BBMP Act has replaced the earlier Karnataka Municipal Corporation Act that governs all other city corporations in the state. The BBMP has formed 198 ward committees[33] and had allocated a budget of Rs 60 lakh to each of the committees (Indian Express, 2022). This development could be attributed to persistent efforts by NGOs like CIVIC Bangalore,

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[33] As of August 2023, the Ward Committees are functioning in an ad-hoc manner and are being chaired by the officials as fresh elections to the BBMP are yet to take place.

Environmental Support Group, and Janagraha (Datta, 2022). The civil society groups had been building grassroot awareness and launched the 'My City-My Budget' campaign on how ward budgets needed to be spent.

While both Kerala and Bangalore have institutionalized ward committees as forums for citizen engagement, in most places, the awareness level of people is lacking. Municipal corporation acts of several states have provisions for the constitution of Ward Councils but only in a few cities, they are functioning (Praja, 2020).

Area Sabha

The Model Nagar Raj Bill (2006) sought to address the anomaly in the 74CAA about citizen engagement in neighbourhood governance, by introducing the concept of Area Sabha. The Area Sabhas were visualized urban equivalents of the Gram Sabha with a small-scale polling booth-level platform having a 3000 – 4000 population (Coelho, Kamath, & Vijaybaskar, 2011). It was felt that a small size would improve civic engagement. Like Gram Sabha, all voters in the area would automatically become members of the Area Sabha. The Model Nagar Raj Bill was introduced when the Jawaharlal Nehru National Urban Renewal Mission (JNNURM) was launched. The JNNURM attached a funding condition that mandated state governments to enact Community Participation Laws in line with the Nagar Raj Bill. It also introduced the Community Participation Fund to incentivize new forms of neighbourhood-level citizen activism (Coelho et al., 2011). While the Municipal Corporation Acts of Himachal Pradesh, Maharashtra, Karnataka, Kolkata, Jharkhand, and Bihar have incorporated such provisions, implementation has not taken place (Praja, 2020).

However, recently Tamil Nadu Government has reintroduced the Area Sabhas and Ward Committees through a gazette notification (Government of Tamil Nadu, 2022). The rule has prescribed the setting up of Area Sabhas in all types of ULBs and each Ward is to be sub-divided into several Areas as shown in Table – 1.

Table 1: Number of Area Sabhas per Municipal Wards

Category of ULB	Number of Areas in a Ward
Corporation	Up to 5 lakh population – 4 to 5
	Between 5 lakh to 10 lakh population – 6 to 9
	Above 10 lakh - 10
Municipality	4
Town Panchayat	3

Source: Government of Tamil Nadu (2022)

Tamil Nadu's initiative to systematise the formation of Area Sabhas in different types of urban settlements is somewhat in line with the Mohalla Sabha concept of Delhi, which sought to form about ten *Mohallas* under each municipal ward (Mohanty, 2014). It remains to be seen how it is implemented.

Alternative Models of Participation

While constitutionally mandated national initiatives like Ward Committee and Area Sabha have faced state-level implementation changes, over the past three decades new models of civic participation have emerged in the forms of Resident Welfare Associations (RWA) and Self-Help Groups (SHG) which are bringing people and the municipal governments closer without making any changes in the political structure as sought under the 74CAA.

RWAs are collective associations formed by individual property owners, operating within specific residential areas (Bose, 2021). They are usually registered as cooperative societies under the Societies Registration Act of 1860. Each RWA possesses its own Memorandum of Association, as well as a set of rules and regulations governing its membership, elections, and office posts. They impose regular subscription fees on residents and take care of the upkeep of shared resources, infrastructure, and service provision within their territory. These matters include sanitation, security, roads, cultural festivities, as well as broader concerns regarding governance and overall quality of life.

Roles of the RWAs in neighbourhood governance received a significant push when the Delhi government launched the Bhagdiari Scheme in 2003 (Chatterji, 2007). The Bhagidari Scheme sought to bring governance to the doorstep and improve accountability by organizing area-wise camps with officials from all key civic agencies being present. By participating in these citizen interfacing exercises, RWAs, Traders Associations and Market Associations raise their voices about pressing issues impacting their neighbourhoods and offer suggestions. The events received high visibility in local media and helped raise the profiles of the RWAs. In the process, the RWAs emerged as influential intermediaries in their neighbourhoods, mediating between the needs of the common citizens and the state agencies, and also as key actors during local elections (Tawa Lama-Rewal & Zérah, 2011). Subsequently, the Municipal Corporation of Delhi further institutionalized the involvement of the RWAs allocating a small budget for each of the registered RWAs (Mohanty, 2014). However, the RWAs have also faced criticism for being socially exclusive (Kundu, 2020). They are seen as essentially articulating middle-class voices and discriminating against the urban poor, and on the basis of castes and communities.

As opposed to the middle-class-dominated RWAs, the SHGs offer an alternative participatory mechanism for the urban poor. However, unlike the RWAs, which have defined spatial territories, the SHGs are not necessarily area-based. They are small voluntary associations of people, primarily women, who come together to pool their resources, save money, and collectively engage in income-generating activities (Kondal, 2014). Almost every Indian state supports SHG activities. While being primarily known as a micro-credit-based livelihood support programme, SHG groups are also emerging as intermediary actors in neighbourhood governance in several states. SHGs organized under the Kudumbashree (Kerala) and Mission Shakti (Odisha) played key roles during the Covid crisis, by becoming force multipliers for the municipal governments, delivering a wide range of community services (Chatterji, Götz, Harrison, Moore, & Roy, 2022; Chatterji, Roy, & Chatterjee, 2022).

SHGs play a crucial role in fostering participation in civic governance among women in urban slums. Through regular meetings, discussions, and workshops, SHG members are educated about their rights, entitlements, and the functioning of local government institutions (Kumar et al., 2019). This knowledge empowers them to engage in discussions related to urban development, infrastructure, public services, and community welfare.

Leveraging their close community ties several grassroots-level political activists emerged out of the SHG movements in several states, and SHG groups are getting institutionalised into the delivery of urban services.

Project-driven Participation through Jaga Mission

Comprehensive slum upgrading undertaken by the Odisha state government under Jaga Mission exemplifies another alternative mechanism for participatory civic engagement, that not only combines features of RWAs and SHGs discussed above but also goes a significant step forward towards gender inclusion. Being driven through a statewide mission, it also demonstrates an innovative approach towards financial resource mobilization through the convergence of various government programmes, and a data-driven approach towards policy implementation by leveraging technical support of nationally well-known NGOs and mobilization of local community organisations.

The Jaga Mission unfolded in two phases. In the first phase the state government granted land rights to the slum dwellers in 109 medium (Municipality area) and small (Notified Area Committee area) ULBs. In the second phase, the scope was extended to transform the slums into livable habitats (Biju Adarsh Colony) and expanded the coverage to 5 Municipal Corporation areas. (Department of Housing and Urban Development, 2022) The Odisha Land Rights to Slum Dwellers Act (2017) was enacted to provide the legal basis for the regularization of slums along with the provision of basic civic amenities. The Act applies to slums with at least 20 households that are on public land. It gives slum families the right to legalize land they are already living on, up to a maximum of 60 sq. mt in small towns and 45 sq. mt. in medium-sized towns (Department of Housing and Urban Development, 2022). Up to 30 square metres of land are given away for free. The rest is payable at a discounted rate. Slums in vulnerable and disaster-prone areas are to be resettled in a nearby location and given 30 square metres of land. The administrative aspects are covered under the Odisha Livable Habitat Mission in 2018. The state government sought to bring in transformative change in the slum habitats, by providing basic infrastructure services such as water supply, toilets, drainage, paved roads, street lighting, electricity supply, community centres and play areas.

Jaga Mission placed significant emphasis on community consultation and Participatory Needs Assessment Surveys were carried out in all the slum

clusters after the land titling process was completed to determine infrastructure shortfalls (Chatterji, 2022). Each slum settlement is required to form a Slum Dwellers Association (SDA) to facilitate community consultation. All residents of the slum areas are members of the association and can be directly involved in planning and developmental activities within their clusters. Like RWAs, the SDAs are entrusted with internal management responsibilities in their areas. However, the SDAs under Jaga Mission are more gender inclusive. Women constitute 50 per cent of the executive committee of the SDA.

In addition to gender empowerment, Jaga Mission also sought to provide livelihood support to the urban poor. Thus, SDAs and SHGs under Mission Shakti are awarded contracts for road paving, drainage channels, and other civil works for slum uplifting contracts instead of commercial concerns (Chatterji, 2022). After the basic infrastructure is put in place, the SDAs can apply to the municipal bodies to get their areas delisted as slums, rename their colony to avoid social stigma and ensure equal treatment in comparison to other residential areas.

To sum up, the Jaga Mission shows an alternative pathway towards community participation and social inclusion through a multi-stakeholder collaborative arrangement, without impacting the basic political framework of urban governance (Chatterji, 2022). By implementing this approach, a new level of governance is established, addressing the deficiencies in leadership and participation inside urban informal communities in a gender-inclusive manner. However, this has not changed embedded institutional structures of urban governance at the municipal and state levels.

Conclusion

The 74CAA had an ambitious agenda towards decentralisation that involved substantial devolution of political and administrative authorities to the ULBs. However, urban development is a state subject under the Indian Constitution and in the absence of state-level political consensus, implementation of the decentralisation measures had unfolded differently across the states. Only a few urbanized states like Kerala and Tamil Nadu and big cities like Bangalore had institutionalized citizen engagement through Ward Committees and Area Sabhas. That, however, does not necessarily mean that participation is not happening in other areas as alternative pathways have emerged. The Jaga Mission of Odisha

demonstrates one such approach. The scheme involves extensive engagement with marginalized sections of society through a multilevel – multistakeholder collaborative approach, without any substantial devolution of authority. The ULBs are involved, but their role is limited to project implementation. Citizen engagement is primarily seen through the lens of service delivery. With India moving towards an urban future more such state-centric models may emerge along the way. It remains to be seen whether this kind of limited empowerment sparks demand for greater citizenship rights through constitutionally mandated structures in future. Indian states vary considerably in terms of socio-economic development, urbanisation, political culture, and approach towards decentralisation. As we rethink the 74CAA, we need to factor in such divergent pathways.

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