

Proportional Representation and Local Governments – Mumbai

It has been more than a decade since the 73rd and 74th Constitutional Amendments came into force. Given the complexity of Indian society, collective political participation of social groups has always been beset with serious problems. In Indian society, traditionally collective social or economic interest ensured certain amount of fairness, harmony and predictability in relations between individuals within a group. But across groups this predictability often fails, leading to conflict. It is this conflict that is proving detrimental to the effective functioning of local governments. Hence, there is a need to encourage political participation and interest aggregation at the local level. This can be done by bringing about fundamental changes such as altering the electoral system to enhance the representative legitimacy of our democracy at the grass roots. The presence of local governments provide us with an opportunity to demonstrate that fair representation models such as proportional representation will result in a more inclusive, fair and democratic polity. This leads us to an important question – can we conduct elections according to proportional representation electoral system in local governments? Let us examine the constitutional provisions and Mumbai Municipal Corporation Act.

Constitution and composition of local governments

243Q. Constitution of Municipalities - (1) There shall be constituted in every State,-

- (a) a Nagar Panchayat (by whatever name called) for a transitional area, that is to say, an area in transition from a rural area to an urban area;
- (b) a Municipal Council for a smaller urban area; and
- (c) a Municipal Corporation for a larger urban area, in accordance with the provisions of this Part:

243R. Composition of Municipalities.- (1) Save as provided in clause (2), all the seats in a Municipality shall be filled by persons chosen by direct election from the territorial constituencies in the Municipal area and for this purpose each Municipal area shall be divided into territorial constituencies to be known as wards.

243S. Constitution and composition of Wards Committees, etc.- (1) There shall be constituted Wards Committees, consisting of one or more wards, within the territorial area of a Municipality having a population of three lakhs or more.

Provisions from Municipal Corporation Act

5. The Corporation shall consist of, -

- (a) [Two Hundred and Twenty Seven] Councilors directly elected at ward elections; and
- (b) five nominated councilors having special knowledge or experience

A careful reading of the above provisions shows that constitutional provisions clearly permit multi-member constituencies. Karnataka Panchayat Raj Act is somewhat ambiguous, and suggests that while the traditional First-Past-The-Post electoral system is adopted, it does not preclude multi-member constituencies. Article 243C (1), cited above, empowers state legislatures to determine the composition of Panchayats subject to requirements of Article 243C (2). Article 243C (2), dealing with mode of elections, merely specifies that “all the seats in a Panchayat shall be filled by persons chosen **by direct election from territorial constituencies in the Panchayat area**”. The constitution further stipulates that the ratio between the population of each constituency and the **number of seats allotted to it** should be the same.

As long as this constitutional directive is adhered to, there is no restriction on having multi-member constituencies, and holding the elections to local governments under proportional representational system. The state legislature, according to powers bestowed on it by Article 243C, can facilitate composition of Panchayats on the basis of proportional representation.

Such electoral system will address many contentious issues facilitating adequate representation for women and ensuring true representation to all sections of the society.

Reservation and rotation: Article 243-D provides for one-third reservation for women in all elected local governments. As a result, millions of women are catapulted into electoral office at the local level across the country. But even before they have a chance to learn the ropes of governance, they are demitting office, as the reserved seats have to be rotated every five years. This is blatantly unfair to women representatives, as it does not provide sufficient time to women representatives to build support base in the constituency. Moreover, rotation of seats is also generating discontent among representatives. Rotation of seats forces all people to elect the representative from the prescribed social group. And it does not give the elected candidates an opportunity to contest for re-election. Thus their experience is wasted, and the incentive of re-election is removed, leading to lack of accountability. As a result of rotation of reserved constituencies, proxies are often put up by the local influential groups. In proportional representation system, as certain percentage of seats can be reserved for women and other categories without any specific reference to territorial constituencies, elected representatives will have an opportunity to build their support base over extended periods of time. Moreover, such representation will also not generate any consternation, as no specific social group or candidate from a territorial constituency will feel left out.

Therefore, the Karnataka law could be amended suitably to provide for the following:

At Grama Panchayat, Taluk Panchayat and Zilla Panchayat levels, multi-member constituencies can be created, and 5 or 10 seats can be allocated to each such constituency. The voters will elect the party of their choice, and the candidates will be chosen on the basis of party lists for the Panchayat. Party lists themselves, and the order of appearance of names shall be decided by the elected delegates of the party by secret ballot. The lists shall conform to the rule of reservation, and the required number of women, SCs, STs and BCs shall be nominated in the serial order determined by the roster system. All members of the Panchayat concerned can thus be elected based on party vote. The number of seats allotted to a party will be based on the share of vote it obtained. Allocation of seats can follow the largest remainder method. Details can be worked out once the principle is accepted.

This system will apply only for election of the councils of the respective Panchayats. The elected head of the Panchayat will have to be according to reservation as prescribed. The Constitution now permits the State Legislature to decide the mode of election of the president of Village Panchayat, and Chairman of a Municipality. But the Presidents of Taluk Panchayat and the District Panchayat shall be elected indirectly. However, for the president of Panchayat, the principle of rotation after two terms can be adopted to ensure continuity.

Municipalities too can adopt a similar system by amending the Municipal Law. The Constitutional provisions relating to municipalities are similar, and they allow election in multi-member constituencies by proportional representation.

Advantages of Multi-member Constituencies and Proportional Representation:

- Reservation of seats can be ensured without rotation.
- As multi-member constituencies replace single member constituencies, the parties can nominate the most suitable candidates from the appropriate categories in the larger area, instead of putting up unsuitable and weak candidates in a small area.
- Proxy candidates will not be put up, as rotation of seats will not be necessary.
- Good candidates will get elected without money and muscle power, as the marginal vote of a candidate is not important. The overall image of the party, and credibility of candidates determines the party's vote share, and therefore the number of seats it wins.
- Good candidates will have incentive to perform well, as there is no need for rotation.
- As candidates are elected in proportion to the vote obtained by a party, all social groups and opinions will have representation in local governments. The Panchayat will represent all segments.
- All votes will have a value, and there will be no wasted votes. Therefore there will be greater participation of voters. Also, since there are no 'winners' and 'losers', all voters will have a stake in the Panchayat formed.
- The method is simple and easy for voters. The citizen has to give one vote for a party of her choice, based on the party's image and the list of candidates put up by the party.

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