

Rejuvenating Republic through Local Governments

by

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*Nowhere has democracy functioned well
without a large measure of
local self-governance*
– Friedrich von Hayek
in the Road to Serfdom

Often our bureaucrats and superior politicians refer to local governments as local bodies or local institutions, which does not give them status of government. The term “Panchayat Raj Institutions” is also used extensively to describe the local governments in India. Translated into English it means the “Rule of the Panchayat” i.e., the rule of assembly of villagers. However the use of the term “Panchayat Raj Institutions” does not bestow an image of legal authority that is independent and substantially autonomous of State and Union governments, therefore there is a need to use the term “Local Self-Government” instead of “Panchayat Raj Institutions”. Many definitions are used to describe 'Local Self-Government' such as deconcentration and decentralization. Deconcentration involves redistribution of administrative responsibility within the central government.ⁱ Decentralization implies sharing of part of the governmental power by a central ruling group with other groups, each having authority within a specific area of the state and it also means distribution of authority and power horizontally rather than hierarchically.ⁱⁱ There is a subtle difference between decentralization and local self-government. Local self-government involves the participatory aspect. In contrast, decentralization according to many focuses much more narrowly on the administrative side.ⁱⁱⁱ In short the local self-government is decentralized form of governance with participatory elements in it. Along with participatory aspects, local self-government is based on the Principle of Subsidiarity.

The Principle of Subsidiarity

Any task that can be carried at the local social unit – beginning with individuals and families – should be performed by that smallest unit. Its only when the local social/political unit cannot perform the task, a larger social/political unit located at a distance should perform that task. Therefore the local governments should perform functions such as sanitation as they are equipped to perform such functions. Local self-governments based on Principle of Subsidiarity restrain unnecessary State interventions. As per Principle of Subsidiarity the delegation of authority will not flow downwards - from central government to state government and from state government to local governments. Rather the individual gives up those functions that he cannot perform to the community, community to local governments, local governments to state and state governments to central government. The Principle of Subsidiarity allows us to think about governments, not in terms hierarchy but in terms of their approachability or accessibility. This subtle shift in understanding the local, state and central governments will not only help us in assigning appropriate functional domain but also in placing

greater trust in the local, state and central governments. As a consequence large number of functions will be assigned to local governments as they are closer to the people and ensure greater participation of the people. But there are those who might ask, why should local governments be given large number of functions?

Why Local Governments?

A large-sized district in India is larger than about eighty (80) nation-states in the world in terms of population. Most of our larger states would be among the large nations of the world. Uttar Pradesh, Bihar, Maharashtra and West Bengal - each would be the largest nation in Europe if independent. Even a truncated Uttar Pradesh would be the world's sixth largest nation! Given these mind-boggling demographic realities, coupled with unmatched diversity, our centralized, somewhat imperial style of governance is archaic and ineffective. Thanks to over-centralization, most public expenditure goes down the drain. The services and public goods we get do not account for even a fraction of the total public expenditure. All the basic amenities and services that make life worth living are in a state of disrepair. Look at education, health care, water supply, drainage, roads and myriad other public services. As a rule, if we can afford we choose private alternatives – like in education and health care, we opt for them at high cost. Where private goods are not possible, like roads and drains, we suffer in silence and fume in impotent anger. The link between our taxes paid and services rendered is non-existent. No wonder, we all made tax evasion and avoidance a highly creative national pastime!

There are those who argue that local people do not have enough knowledge or skills, and local governments tend to be corrupt. When the British argued that we were not fit for freedom, our leaders pointed out that good government was no substitute to self-government. They had to grudgingly admit that the British did give good government, and yet we fought for our freedom. Today, centralized government has become a repository of corruption, incompetence and misgovernance. What we have in the name of governance is constitutional brigandage and legal plunder. The struggle today is plainly between centralized bad government and local self-government.

The notion that citizens have no capacity to understand their self-interest and are incapable of taking charge of their own lives at local level is absurd in a democracy. And yet, we extol the virtues and wisdom of voters when they exercise their franchise in electing state and national governments. Many of us admire China's rapid economic growth in recent years. But we often ignore the fact that the employment and exports in China are powered by the millions of town and village enterprises (TVEs) with the support and active participation of local governments. One of the ironies of contemporary history is authoritarian and communist China is far more decentralized than liberal democratic India!

It is true that locally elected governments are likely to be as decent or corrupt as centralized governments. There is no greater morality in local governments. But as the government is local, and people understand the links between their vote and public good, and taxes and services, they will assert to hold the government to account and improve

the quality of our democracy. It is with the intention to improve the quality of democracy that the 73rd and 74th amendments were enacted to the Constitution.

Constitutional Provisions

It is now over ten years since the 73rd and 74th amendments to the Constitution were enacted with great hope and anticipation. Unfortunately, local governments in most parts of the country continue to be feeble and anemic. As has now become the habit, our law-makers are loquacious without substance. Together the two amendments are about 7700 word-long, and yet the key provisions regarding the powers and functions of panchayats (Article 243-G) and municipalities (243-W) are vague and feeble. Most states, which are loathe to devolution of powers, took full advantage of this ambiguity, and created local governments devoid of any substance. Kerala is an honourable exception, and West Bengal and Karnataka too have empowered local governments to a reasonable extent.

Our two amendments run longer than the entire American constitution (4700 words) which created the most successful democracy in history. Article 28 of the German Basic Law, mandates powerful, democratic, autonomous and self-reliant local governments in just over 100 words. The unambiguous provisions of German Basic Law provide for well-defined elected local governments with clear lines of authority and accountability; the details of structure are left to Landers (states), and the federal republic is to ensure their effective implementation.

Even then, our constitutional provisions are not meaningless. They do provide for mandatory creation of local governments and periodic elections. Elected local governments can no longer be dismissed en masse. If a functionary is removed after due enquiry, there shall be an election within six months to fill the vacancy only for the remainder of term. The propensity of partisan state governments to dismiss local governments controlled by rival parties is thus curbed. A State Election Commission as an independent constitutional authority is now mandatory to conduct regular, free and fair elections. Similarly a State Finance Commission has been created to recommend distribution of resources to local governments.

The preamble, fundamental rights and directive principles embody the spirit of the Constitution. These three together clearly point to true democracy defined as self-governance and empowerment, and popular sovereignty. Article 40, as well as the 73rd and 74th amendments talk of local bodies as effective units of self-government. The wording in provisions relating to creation of parliament (Article 79), state legislatures (Article 168), and local governments (Art. 243) is identical. But most states have violated this spirit. Often District and Metropolitan Planning Committees (Articles 243 ZD and ZE) and ward(s) committees (Art. 243S) are not created. Elections have been delayed; the recommendations of State Finance Commissions are ignored; and even Union grants devolved on the local governments are appropriated by the states.

The Council of Ministers and legislature at the Union and State levels are clothed with great authority not because they comprise of the greatest or most virtuous citizens, but because we have elected them to represent us. That is what democracy is about. It is ironic that governments which derive legitimacy solely from democratic elections are keen to undermine local governments elected by the same voters. This can be clearly understood if we take the case study of local governments in Andhra Pradesh.

Overview of Local Governments in Andhra Pradesh

Andhra Pradesh was one of the first states to constitute local governments through a legislative act in 1959. With the passage of time, the state government and its executive branch started playing a dominant role in development processes and local governments were relegated into background. Though the 73rd amendment to the constitution has made three-tier system panchayats mandatory, the extent and content of devolution that needs to be implemented has been left to the discretion of state governments. Consequently, the various state governments, such as Andhra Pradesh, have refrained from empowering local governments in a meaningful manner. Referring to the functioning of local governments in Andhra Pradesh, The National Commission to Review the Working of the Constitution (NCRWC) has in a consultation paper commented:^{iv}

“In Andhra Pradesh...the Gram Panchayat and Mandal Parishad’s are not required to plan for economic development and social justice. All tiers of Panchayat have been assigned with large number of functions. But none of them has financial or administrative resources under their control to execute them. The Mandal Parishad has no control over the staff of Development blocks, and the Zilla Parishad has no control over the DRDA which controls huge funds over various poverty alleviation programmes.”

It is not correct to say that a large numbers of functions have been given to the local governments in Andhra Pradesh. As per the 11th schedule 29 subjects can be devolved to the local governments, but the Government of Andhra Pradesh (GOAP) has devolved only 17 subjects and that too without transferring either the funds or functionaries along with the functions. Only advisory and review powers have been transferred. For instance, in the education sector the GOAP transferred only adult and non-formal education and libraries, but not primary and secondary education. Due to incomplete devolution of powers, the role of local governments has been limited at best to beneficiary selection.

District Planning Committee’s (DPCs) have not been constituted in spite of a clear constitutional mandate to do so. The DPC should prepare a district-level development plan and forward it to the State Government. States such as Kerala and Madhya Pradesh have constituted the DPCs. In Andhra Pradesh a district level institution called District Development Review Committee (DDRC) has been constituted to review the development activity in the district. The DDRC does not have any functional linkages with the local governments. It is the MLA’S and MP’s who have a strong say in the functioning of DDRC. The absence of DPC and the functioning of DDRC in Andhra Pradesh goes against the spirit of the 74th Constitutional Amendments, which envisaged

preparation of development plans at the district level by representatives of elected local governments and envisaged the DPC as a bridge between rural and urban local governments.

The District Rural Development Agency (DRDA) has also not been integrated with the local governments. DRDA is an important institution at the district level that implements numerous rural development and poverty alleviation programmes. It is important to note that the formation of DRDAs took place when there were no local governments in many states. Local representation could be ensured by making MLA's and MP's of the district as members of the governing council with the District Collector acting as the Chairman. However after the 73rd Constitutional Amendment, the functioning of DRDAs independent of local governments is contrary to the spirit of the Constitution. Implementation of rural development programmes pertaining to various devolved subjects by the DRDA without any linkages with the local governments is an important contributory factor in the weakening of local governments. While states such as Karnataka, Kerala and Madhya Pradesh have merged DRDAs with the Zilla Parishad to strengthen local governments, the GOAP is yet to do so.

States where DPC has been Constituted.	States where the DRDA has been merged with the Zilla Parishad.	States where the Chairpersons of the Zilla Parishad heads the DRDA.
Bihar, Haryana, Karnataka, Kerala, Madhya Pradesh, West Bengal, Rajasthan, Maharashtra, Tamil Nadu, Uttar Pradesh, Sikkim, Tripura.	Karnataka, Kerala, Madhya Pradesh, West Bengal.	Himachal Pradesh, Orissa, Rajasthan, Tamil Nadu, and Uttar Pradesh.

Source: India Panchayat Raj Report 2001, National Institute of Rural Development, Hyderabad 2001, pp. 63,110.

Apart from the reluctance to transfer subjects enumerated in the Eleventh Schedule of the Constitution, even in the limited transfer of functions that the GOAP has attempted, it did not transfer either the accompanying functionaries or finances to local governments. The authority of the local governments on the functionaries of various departments carrying out rural development functions is very limited. Elected representatives of local governments cannot take any disciplinary action against any gazetted officer. Representatives of local governments can at the most question the officials in the meetings or request the higher authorities to take appropriate action. However in states like Maharashtra, the local governments have their own cadre and various officials at the grass root level such as teachers, village health workers and electricity board engineer must attend all the Gram Sabha meetings and must implement all the resolutions of the Gram Sabha. Similarly local governments have complete control over all the Class III/IV employees working with it. On the contrary, in Andhra Pradesh even the powers that were given to local governments over some of the functionaries have been withdrawn. For instance through Government Order (GO no. 358) in 2000 the GOAP vested all powers with regard to teaching and non-teaching staff of schools with the District Education Officer (DEO) removing them from the hands of CEO of Zilla Parishads.

The fiscal devolution to local governments has also been very minimal. While Gram Panchayat has taxation powers, Mandal Parishad and Zilla Parishad tend to depend on the transfers and grants from the state government. In case of Gram Panchayat the financial resources generated locally are not sufficient to meet its expenses. More often than not, the Gram Panchayats do not have the necessary staff to collect various taxes propelling them into a vicious circle of fiscal insolvency. The Gram Panchayats do not have resources to employ staff to collect taxes and inability to employ the staff further exacerbates the financial crunch as the taxes that are levied cannot be collected efficiently. The state governments financial transfers to local governments has been negligible. The table below shows that annual untied amount was not more than twelve thousand rupees while the expenditure of the Panchayat was around Rs. 13,000. The Panchayat was not in position to collect house tax and water cess and substantial expenditure went into the payment of expenditures. On the other hand almost Rs.8,50,000 worth works have been carried out in the Panchayat, over which the Panchayat does not have any control.

Table Showing Flow of Funds in Pallepalli Panchayat in Anantapur District since 1995.

Particulars	Period	Amount in Rs.
Projects During last five years		
Construction of Cement Roads and Drainage line under <i>Janmabhoomi</i> Program	Occasional or 5 Years	200,000.00
Construction of Drinking Water Supply Project	Occasional or 5 Years	650,000.00 ²
Revenue of the Panchayat		
Grants from the State Government		
Tenth Finance Commission @Rs.16/ family	In two years	6,288.00
One rupee per head grant	Yearly	1,048.00
JRY grant ³	Yearly/1999	14,000.00
Share in Stamp duty (20%)	Yearly/1999	2,000.00
Share in Professional tax	Yearly/1999	3,000.00
Collection of House Tax @Rs.0.20/ sft, Rs.15/ house for low income groups, Rs.5/ Cowshed	Yearly	Did not collect during last five years
Collection of water charge from fifty private taps @Rs.50/ tap	Yearly	Could not be collected ⁴
Annual Expenditure of the Panchayat		
Electricity bill	Yearly/1997	550 Not paid since 1997
One person to look after pump house and street lights	Yearly/1999	6,000.00
Salary of village priest	Yearly/1999	1,500.00
Salary of Sarpanch @Rs.300/month to drawn from Panchayat funds. State Government pays @Rs.300/pm more	Yearly/1999	3,600.00
Maintenance of pump house and street lights	Yearly/1999	500.00 ⁵
Celebrations of local festivals, etc	Yearly/1999	1,500.00

Source: G.Bhaskara Rao, "Strengthening of Panchayats: Beyond Contractor's Role A Note on Andhra Pradesh Experience," available at <http://www.panchayats.org/downloads/GBR-paper.PDF>

The GOAP claims that almost 10.5 percent of its rural expenditure has been done through local governments. However a closer examination of facts reveal that a mere 5.3 percent of its financial resources have been spent through local governments and the remaining 4.7 percent was from the own financial resources of local governments. There is also absence of accurate fiscal data on the financial devolution to local governments as the World Bank observed in its report: "GOAP figures on the amount transferred to the local governments as "planned" are misleading as Janmabhoomi amount is shown as released to the local governments; in reality, it is released directly to the collector, who then releases it to the Nodal Officer^v." It is estimated that almost 80 percent of the meager financial resources of the local governments is spent on wage bills. As the State government has been complaining this may be true of the governments own current expenditure. However in their case the privilege of employment and powers of supervision and control go with the bill. In the case of local government only the bill bears their name while the power remains with the state government. However, since these are now shown as local government activities the onus on non-performance falls on them. In the absence of clear functional devolution and control over functionaries and lack of access to resources the local governments are unable to function in any meaningful manner. Some of the other aspects that are undermining the effective functioning of local governments in Andhra Pradesh are the constitution of village secretariat and programmes such as Janmabhoomi.

Village Secretariat: In an attempt to provide various services under one roof in rural areas the GOAP on 1st January 2002, launched Grama Sachivalayam (Village Secretariat) system. In this model the village secretary is the key person performing as many as 60 functions of various departments such as Police, Revenue, Panchayat Raj, Health, and Agriculture. The emergence of an administratively powerful village secretary is being seen as an attempt to weaken the local governments.

Janmabhoomi: The administrative mechanism of nodal officers is also contributing to the weakening of local governments. Nodal officers are playing a key role in the allocation/disbursement of resources and Sarpanchs are finding it difficult to carry out development works. The District Collector is the Nodal officer at the district level, a nodal officer is appointed at Mandal level and a government officer is appointed as the Habitation level officer to oversee the implementation of the Janmabhoomi programme. The DDRC and the state cabinet oversee the implementation of the programme. Though the government argues that local governments have been provided a role in the Janmabhoomi programme, the funds for the Janmabhoomi are released by the Collector and placed at the disposal of Nodal officer. Each round of Janmabhoomi has a specific theme decided by the State government. Funds for departmental programmes are channeled through line department. In this implementation procedure the role of local governments is minimal.

As it is the local governments are handicapped by paucity of funds, lack of control over their functionaries and there is no clear devolution of functions. On top of this the emergence of bureaucratic institutions such as nodal officers for state programmes such as Janmabhoomi have further weakened local governments.

What Needs to be Done

It is evident from the above analysis that the local governments have not been empowered sufficiently to carry out various functions independently. In this context it is imperative to ask what is it that can be done to establish strong local governments and to translate the principle of subsidiarity into reality?

- Article 243 G and W need to be amended to give explicit authority to local governments. 11th and 12th schedules of the Constitution should have the same effect as the 7th Schedule - distributing powers between the Union and States.
- We need to create a single district government for rural and urban areas at the third tier of panchayats. A district is larger than about 80 nations in the world. The idea of a district panchayat only for rural areas is outdated.
- Healthy practices of devolution and decentralization should be evolved. Transfer of 50% tax resources as untied grants, de-provincialization of employees entrusted with local functions, district budgets, local tax avenues, and restructuring of village panchayats to make them larger and more viable units of self-government – all these are vital for effective local governance. Rotation of reservations can be effected once every two terms to give greater stability and promote leadership.
- We need to create instruments of accountability to keep elected governments at all levels under check.

Recognizing that all these changes are critical for the future of our republic, Lok Satta starting from 9th August (Quit India day) and ending with 2nd October (Gandhiji's birthday), is reaching out to practically every village in Andhra Pradesh to mobilize people for local government empowerment in the form of signatures / written support. The goal is to obtain the support of 10 million (1 crore) citizens. We hope to accomplish at least 70 – 80% of the target. This will be the largest ever non-partisan mass mobilization in any state on an issue, which is not emotive, and does not have caste or religious overtones. Only a massive people's movement of this kind can empower local governments and rejuvenate our republic.

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ⁱ Siegmur Schmidt "Is Small Beautiful? The Significance of Decentralisation and Local Self-Government in the Context of Recent Processes of Democratization in Africa" available at <http://www.kas.org.za/Publications/SeminarReports/Traditionallocalparticipation/SCHMIDT.pdf>

ⁱⁱ Ibid.

ⁱⁱⁱ Ibid.

^{iv} National Commission to Review the Working of the Constitution, "Review of the Working of the Constitutional Provisions for Decentralisation (Panchayats)," available at <http://lawmin.nic.in/ncrwc/finalreport/v2b2-6.htm>

^v World Bank 2000, "Overview Of Rural Decentralization In India, Volume II," available at <http://www1.worldbank.org/wbiep/decentralization/saslib/Volume%20II%20Rural%20decentralization%20in%20India.pdf>