

# Liberty and Locus of Power

*Dr Jayaprakash Narayan\**

---

Limited government and local decision-making are among the cardinal principles of a liberal society and state. Whatever be the role assigned to government, if such role and power are dispersed in multiple authorities at different levels, liberty is safe. Horizontal and vertical decentralization protects liberty, as opposed to a centralised, totalitarian system with a single locus of power. Local decision making gives citizens greater control over their lives and allows effective participation in democracy and governance.

## **Clash of Visions**

And yet our Constitution and state structure have created a highly centralised, largely ineffective governance process that neither disperses power, nor allows people's participation. Indian Constitution is a remarkably humane, liberal document. However, there was a clash between Mahatma Gandhi's vision of limited, decentralized government with people gaining a significant measure of control over their lives, and Dr Ambedkar's concerns about transferring power to the *panchayats* that were 'dens of casteism and corruption'. Both had strength in their arguments. Gandhiji's fierce antipathy to centralisation and state control were at the heart of his opposition to colonial rule. Ambedkar's aversion to the hierarchical, caste-ridden society that institutionalised inequality by birth, and therefore the fear that the local elites would monopolise power and perpetuate caste rigidities at the village level, were fully justified.

The failure of our nation-builders to reconcile the diametrically opposing views of Gandhiji and Ambedkar has proved very costly for the evolution of Indian state. Gandhiji had a romantic notion of a village as an idyllic, self-governing, self-reliant little republic. While the Mahatma fought caste discrimination and institutionalised cruelty of our tradition all his life, he naively believed that moral persuasion alone would somehow transform the hearts of men bound to centuries of tradition and self-serving cruel practices. While Ambedkar recognised the dangers of building state-power around the tradition-bound iniquitous village structure, he failed to recognise that power vested in larger local units - for instance, a county or block or mandal as a cluster of several villages - would actually help weaken the entrenched caste hierarchies in a system of universal franchise. In a traditional village, each caste group lives in isolation and accepts the hierarchies and institutionalised inequalities with little resistance. But if a cluster of several villages becomes the primary unit for organising the state, and resources and power are transferred to such a unit, universal franchise would weaken tradition, and the poor and marginalised would find voice and gain more and more control over their lives. The incapacity of the Constituent Assembly to arrive at such a synthesis created a strong union and substantially empowered yet vulnerable state governments. Local governments were not made a part of the constitutional structure of Indian state, and they were relegated to the Directive Principles of State Policy along with many other homilies and shibboleths.

## History of Local Governance in India

This neglect of local governments was an extraordinary omission, given the impressive record of Indian society managing most of the affairs locally throughout our long history. Over 5000 years ago, the Indus valley civilisation was home to organized urban life – wide streets, market places, public offices, community baths, drainage and sewerage system. We have no definitive proof of the governance system in the vast, ancient Indus valley (Mature Harappan) civilisation, since the Harappan script has not been deciphered yet. However, available evidence and the vast geographic spread indicate that each Harappan city was a self-governing city-state with local decision making. During the Vedic age too, local governance was the norm. The early Vedic age, 3500 years ago, saw political organisation around tribes rather than kingdoms, and therefore governance was essentially local and centred around the community. Even in the later Vedic age, small kingdoms, not large empires, were the norm. Around the period of Gautama Buddha and Lord Mahavira, Lichchavi republic epitomised a system of local government and a confederacy of all local tribes was organised on the principle of equality. Other confederations – Videhan republic, Vajjian republic and the reference to the sixteen Maha-Janapadas in ancient texts (Anguttara Nikaya and Bhagavati Sutra) - indicate organisation of self-governing local institutions coming together as confederations of equals. From the Mauryan empire 2300 years ago to the Mughal empire (1526 – 1707 AD), for nearly two millennia, villages had largely their own governing structure, and cities had varied structures with appointed officials, a town council, and even provisions for elected administrative officers.

Local governance reached remarkable heights during the Chola Period in South India. The Uttaramerur inscription, dated around 920AD, is a testament to a highly refined electoral system and local governance through a written constitution about 1100 years ago. As Dr. R. Nagaswamy, author of *Uttaramerur, the Historic village of Tamil Nadu*, points out that the *Uttaramerur* inscription gives astonishing details about the constitution of wards, the qualification of candidates for elective office, the disqualification norms, the mode of election, the constitution of elected committees, the functions of these committees, the power to remove wrong doers, and other specific details. The inscription shows that while the village was a part of a large monarchy, the village constitution was adopted and implemented by the village assembly with royal encouragement. The detailed constitution for governance of Uttaramerur makes a thrilling reading, and stands as an extraordinary proof of effective local governance and people's participation even in a strong and powerful monarchy nearly eleven centuries ago.

Even during colonial rule in British India, local governance was given considerable importance. Corporation of Madras, established in 1688, is the oldest municipal body in the Commonwealth of Nations outside Britain. In 1720, a royal charter was issued for establishing a mayor's court in each of the three presidency towns of Madras, Bombay and Calcutta. With Lord Mayo's resolution in 1870, municipalities were established in all important towns, though they were completely under the control of officials. Lord Ripon's resolution in 1882 advocated a network of local self-government institutions constituted by elections. But real breakthrough came with the Government of India Act, 1919 when the responsibility for local government was transferred to a department

controlled by a popular minister, franchise for election to local bodies was substantially widened, municipal bodies were given power to determine tax rates, and elected councils were established, and elected chairman was given executive authority.

In 1924, many prominent Indian freedom fighters were elected Mayors of local governments: Chittaranjan Das in Calcutta, Vallabhbhai Patel in Ahmedabad, Rajendra Prasad in Patna and Jawaharlal Nehru in Allahabad. Chittaranjan Das appointed young Subhash Chandra Bose as the Chief Executive Officer of Calcutta Corporation, instead of meekly accepting a career civil servant appointed by the colonial government. Bose, in a few months, acquired a formidable reputation for his competence. In October, 1924, Bose was unfairly jailed on false grounds for his alleged support for the revolutionaries. Even while Bose was in Alipore jail in Calcutta, on Das's insistence, the British government allowed him to function as the CEO of the corporation from jail. Files were circulated to him, officials, corporators and Mayor met him, and Bose issued orders and ran the city – all from inside the Alipore jail! This practice continued until Bose was shifted to Mandalay Jail in Burma. This extraordinary episode illustrates the wide-ranging powers and autonomy enjoyed by elected local governments during the colonial rule.

Given this remarkable history of local governments in India's long history, the high degree of centralisation in post-independence era is an aberration. For all appearances, we are a robust functioning democracy. Judging by Myron Weiner's four criteria for a functioning democracy – competitive elections, political freedoms, absence of vendetta and retribution against those who lose elections, and elected governments effectively exercising authority – India is undoubtedly a highly successful functioning democracy. A largely poor and illiterate society fragmented by many primordial loyalties and divisions of caste, region, religion and language audaciously adopted democracy and universal franchise. Few observers believed India would succeed as a democracy. That we could stay together as a united nation, preserve liberty and human rights, and achieve modest economic progress is a remarkable tribute to our society, Constitution, and the efforts of freedom fighters and early leadership to internalise democratic institutions and practices.

### **Roots of Crisis**

However, neglect of local governance in the Constitution and failure to create effective, sustained, empowered local institutions over the past 65 years has had profound negative consequences on the evolution of our democracy. Many practitioners, scholars and eminent citizens have observed that while democracy is broader than ever before, it has still not struck deep roots, and citizens continue to be marginalised. A deeper examination of our democratic evolution is necessary to understand the causes and consequences of our failings. India daringly adopted universal franchise in the face of three major obstacles to democracy. First, our poverty and illiteracy made people insular, fearful and highly prone to seeking support in caste or religious groups. Second, there was no notion of citizenship or understanding of vote and self-governance. Given the colonial history, the government was seen as *mai-baap*, and people were helpless in the face of the might of state power. This notion of omnipotent government was reinforced by the license-permit-quota raj adopted for over four

decades. This oppressive government control, make-believe socialism, and curbs on economic freedom at every stage made the citizens mendicants. Third, in a poor country with colonial baggage, service delivery by lower bureaucracy was always defective. Given abject poverty of the bulk of citizens, even a low level government functionary was far more economically secure, powerful and influential than most of the people whom he was supposed to serve. This asymmetry of power made public servant all-powerful and allowed ruthless exploitation of the citizens' helplessness, and created a vicious cycle of corruption.

In the face of these three initial conditions – mass poverty and illiteracy, absence of notion of citizenship, and oppressive bureaucratic power and poor service delivery – we instituted elected governments at the Union and state levels. The people suddenly realized that, for reasons not entirely clear to them, their vote determined who would be the next *rajah* in Delhi or the state capital. Notions of probity, governance, role of state, functions of various levels of government or its agencies are alien to most voters. All they know is that they have, at last, one weapon called vote which is their only lever for getting things done. Given the abysmal service delivery – water supply, street lighting, local road, land record, ration card, electrical connection, house building permission, patient-care in a hospital, registration of a complaint in a police station – voters approached the elected legislator, who depended on their vote to get elected. The elected legislators and governments should have focused on improving service delivery and accountability of bureaucracy, and strengthening and empowering local governments to meet most of the local needs of people. Such a course would have allowed local leadership to develop, and improved service delivery under the watchful eye of the voters who would clearly understand the link between their vote, the quality of leaders elected, and the delivery of services at local level. This would have enabled people to understand the value of the vote, unleashed people's energies, created training opportunities for leaders, promoted quality leadership and firmly established in public mind the link between their vote and public good. It would also have made people aware that government is not an omnipotent god with all answers to their problems and unlimited resources, but it is an institution they created to fulfil their common needs with the taxes they paid. This would have made voters aware of the role of the state and the link between the taxes they pay and the services they get. Most of all, locally elected, empowered leaders would have the power to deliver, and would have been accountable to the people who elected them. The local government leaders would be accessible to people, live in their midst, and would be their peers and equals, not some distant, remote, inaccessible, mighty rulers functioning mysteriously. In turn, the local government leaders would exercise effective control over local bureaucracy and enforce accountability.

By centralising powers at national and state levels, and by not allowing effective local governments to strike deep roots, India lost on all these counts. There is no link between vote and public good in citizens' mind, people have no understanding of the taxes they pay and the services that can be legitimately expected in return, and there is no accountability at any level. As a result, we have created an electoral democracy sans accountability and delivery. An opaque, centralised system of alibis has come into existence in which every functionary can evade responsibility and pass the buck. In

such centralisation, only a few – the Prime Minister, Chief Minister, and district magistrate – are seen to be powerful. But even they could not deliver in a system of diffused accountability.

### **Disguised Executive**

In this climate, the elected legislator and voter responded to the emerging democratic and governance crises in the best way they could. The legislators, instead of insisting on creation of empowered local governments and holding them to account, preferred to directly address public grievances without any legitimate executive power. In order to satisfy the voters, they needed to create a vast, parallel, informal political machine to receive people's complaints, approach local bureaucracy, mediate between people and government, peddle influence, and get at least some things done. But this approach had three drawbacks: one, instead of holding the bureaucracy accountable, it became subservient to it; two, even with the best efforts of a vast, informal political machine, the delivery was sporadic and insufficient, leading to general inefficiency and growing public discontent; and three, the vast, informal political machine needed money to sustain it, and therefore corruption became necessary to sustain electoral politics.

The growing dissatisfaction of the people meant that come next election, people need to be enticed to vote for them. Popular enthusiasm for democratic process was progressively replaced by clientalism and cynicism. Therefore, given the abject poverty of most voters, vote became a purchasable commodity, and vote buying has become rampant. As all major candidates for elective office competed for vote buying in a winner-takes-all first-past-the-post system, cost of elections went up dramatically. The public spirited, honourable leaders who fought for freedom and built democratic institutions were progressively eased out, and politics became a commercial business in most cases, with all the attendant evils of abuse of state power and ubiquitous corruption. As all parties spent lavishly to buy votes, more was needed to gain the vote. A culture of offering short term freebies – free electricity, loan waiver, television sets, bicycles, grinders, free rice – have now become endemic. The basic functions of government have been largely neglected, and only individual inducements have become the staple of politics. As all parties have joined this race for competitive populism, other techniques of vote mobilisation were needed. In a poor, diverse, tradition bound society with primordial loyalties it is easy to play one group against the other, polarise votes and reap political dividends. All these three unseemly features - vote buying, competitive populism and sectarian polarisation - have now become integral to our electoral politics.

### **Bureaucrat-Legislator Nexus**

It would be an exaggeration to say that strong local governance would be an instant panacea to all our problems. It is a fact that the 73<sup>rd</sup> and 74<sup>th</sup> Amendments to the Constitution have largely failed. Phenomenal vote buying, abuse of office, extortion and corruption have become equally entrenched in local governance. Where local communities are given voice, as in public hearings for environmental clearance, there are often serious allegations of rabble-rousing and extortion. The local elected politicians have fully imbibed the prevailing political culture. In this backdrop, is it wise to trust local governance? This is a question that agitates the minds of many well-

meaning, public-spirited, serious thinkers and practitioners in politics, public administration, civil society and academia. But the realistic solutions to our problems come only from greater alignment of voters with their government, greater linkage between taxes and services, and greater fusion of authority with accountability. Local government is the only institution where all these three objectives can be accomplished in our democracy. The authoritarian option of a philosopher-king giving us wise and good governance and people accepting such a ruler unquestioningly is not available to us, nor is it desirable. There is no guarantee that a true philosopher-king would emerge as the unquestioned leader; there is little evidence to suggest that the king will remain a philosopher once he tasted absolute power; and there is little chance of our fractious, diverse, complex society accepting the diktats of even a noble philosopher without resistance. Therefore, empowered, effective, participative, accountable local governments and institutions of stakeholders are vital for the rejuvenation of our democracy.

In many states, in the 1960s, and even in the early 1970s, local governments flourished. High quality leadership emerged, and they delivered exceptionally well. The flourishing of school education in many regions in those days was largely because of the leadership and vision of local government leaders. Despite inadequate resources, community was involved in education, water supply, roads, village tanks, healthcare and agricultural extension. In several pockets where genuine autonomy was given, credit cooperatives succeeded. Milk cooperatives brought about a white revolution, and demonstrated how stakeholder empowerment and decentralization effectively harness technology, benefit from professional management, acquire economies of scale and build a nationwide brand image through federalisation. The high degree of political centralisation of the emergency era of mid-1970's irreversibly weakened local governments. With time, the state legislature and the bureaucracy have developed powerful vested interest in a corrupt, centralised governance model. The nexus of legislators and bureaucrats stymied all subsequent efforts to strengthen local governments. As the states were already well established as second tier governments in the eyes of the people, local governments were increasingly seen as interlopers. Even when some efforts were made to empower local governments, hostility of legislators and bureaucracy, heavy dependence of state government for resources, state control of even local bureaucracy, provincialisation of practically all services and all segments of bureaucracy, and the prevailing crass political culture of corruption and abuse of power have ensured that the local governments did not survive for long, nor were they effective in fulfilling their role.

### **Over-Structured and Under-Powered**

Why did the 73<sup>rd</sup> and 74<sup>th</sup> Amendments fail then? Sadly, the well-meaning 1992 amendments created over-structured, under-powered, ineffectual local governments. Failure was therefore inevitable. If the Constitution simply guaranteed effective transfer of powers and resources to the third tier of governments and left the details to the states, things would have been radically different. Instead many serious mistakes were committed. States were not given the flexibility in organising local governments based on their history and experience. For instance, in many states, there was an organic linkage between village, block and district level local governments. The amendment

imposed a uniform pattern, creating a separate elected council for each level. In several states efforts were being made to directly elect the chairpersons of local governments, giving them popular mandate and authority. Constitution made it mandatory to have only indirect election of chairpersons in intermediate and district bodies. Many states already provided for reservation of women, SCs, STs and backward class in local government bodies. But the Constitution, by not limiting reservations for representative councils, and by extending them for executive office, made rotation of reservation of the chief executive inevitable. As a result, leadership development became impossible. Weak, transient leadership could not assert authority, or mount collective pressure over the state to give more autonomy and resources. Finally, the Constitution is silent on real powers or resources to local governments, and left them to the discretion of unwilling and recalcitrant states. As a result, they continue to remain as largely ineffective, ornamental bodies, with mandatory elections but no real effective role.

In this backdrop, significant fiscal devolution could have been the effective means to strengthen the third tier of federalism. The Fourteenth Finance Commission (FFC) report (2013) provided for significant increase in transfer of resources from Union to states. This was a priceless opportunity to painlessly transfer adequate resources to local governments. Once resources are transferred, functions and powers would have followed. However, FFC recommended only ₹287436 crores to local governments over five years out of the total devolution of ₹39.48 lakh crores, a paltry 7.3 percent of union devolution, and a much smaller share of total public expenditure in the country. Elsewhere in the world, local governments account for 20-30 percent of the total government expenditure. The Union government could easily have utilised the opportunity to transfer to local governments a much larger share of union transfers. A priceless opportunity was squandered.

### **Fiscal Prudence and Local Decisions**

All genuine liberals, serious economists and enlightened politicians, bureaucrats and citizens are deeply concerned about misallocation of public resources and the rise of unchecked, reckless, competitive populism at the cost of primary responsibilities of state. Rule of law, delivery of justice, public order, school education, quality health care, basic amenities and infrastructure are all underfunded and suffering neglect at the altar of short-term vote catching freebies. In any democracy, there is a clash between the short-term political price that politicians have to pay while pursuing long-term public good. Therefore, rational public policy and prioritisation always tend to suffer in a popular democracy. This tendency is aggravated in a centralised regime, because people do not directly perceive the alternative benefits they receive by giving up a subsidy. For instance, a household that is now receiving cooking gas subsidy is asked to give it up for vague notions of national good. For a struggling family, it is hard to give up a sure benefit in exchange for a vague promise of future good. But if these subsidies are administered locally, and people see the alternative use of additional public funds saved by de-subsidisation, there is greater likelihood of people making informed choice between short term subsidies and valued public goods like safety on the streets and water supply. Clearly empowered local governments and innovative resource management at local level can radically alter our fiscal landscape, promote prudence and help focus on public goods.

## Success Stories

Almost all significant successes in delivery of services in India are a result of local innovation and decision making, not central diktats and control. Alandur municipality in Tamil Nadu, a small town of about 80000 people that is now a part of Chennai corporation, became a pioneer as the first small town to build a decent sewerage system with local resources and citizens' support. As a result, property values appreciated dramatically in a short period of time, apart from the obvious benefits of sanitation, health and beautification. Verghese Kurien's pioneering efforts transformed the lives of millions of farmers through small cooperatives despite meddlesome government control, not with government support. In Andhra Pradesh, a truly liberal Mutually Aided Cooperative Societies Act (MACS Act) was enacted in 1995 to liberate self-reliant cooperatives from the clutches of government. Similar laws were enacted in eight other states over the next decade. These self-reliant, autonomous cooperatives under MACS Act were hugely successful, even as government controlled cooperatives in most cases failed and forever demanded more sops and subsidies. Despite that, there were frequent government efforts to control self-reliant cooperatives. I had the privilege of playing a role in helping Parliament enact the 97<sup>th</sup> Amendment explicitly guaranteeing protection of Article 19(1)(C) to cooperatives, and it became law in 2012. Even then, the government needlessly incorporated a new, inelegant, inconsistent Part IXB in the Constitution against all advice. This chapter has now been rightly quashed by Gujarat High Court, and is being adjudicated by the Supreme Court.

During 1986-89, I had the privilege of mobilising people, and with their full participation and ownership create a record 125,000 acres of new minor irrigation through 453 lift irrigation schemes, 70 diversion schemes, and over 2800 bore wells, all at a fraction of the cost of government projects. In all cases, the bank loans were promptly repaid by farmers well ahead of time, and the benefits far exceeded the investments - public or private – in a short span of time. The Indian Space Research Organisation, Bhabha Atomic Research Centre and some of the better Public Sector Undertakings achieved great success and became islands of excellence because of autonomy and empowerment, not centralisation and government control. There are many such examples of outstanding success and enduring progress when people are truly empowered and are enabled to seek their destiny through local efforts and innovation.

This principle is universal and applies to all institutions of stake holders as well, wherever they are clearly identifiable. The cities of Sunnyvale and Cupertino in Bay area of Northern California are only separated by a road. However, the property values of Cupertino are significantly higher than in Sunnyvale because the School Board there functions very effectively to the benefit of children in public schools. Under American law, only residents who pay local taxes can send their children to local schools, and therefore there is high demand for housing in Cupertino and property values shot up! It is this convergence of taxes, services, prosperity and quality of life that makes effective local governance and democracy a vibrant, exiting, wealth-promoting, value-adding, leadership-nurturing exercise.



## Way Out

Finally, what can be done to institutionalise the third tier of federalism in the current climate of political polarisation? Based on our own experience and global best practices, the following approaches should be considered:

- If political consensus can be built, the Constitution should be amended incorporating a local government list in the Seventh Schedule to provide for effective and empowered local governments with guaranteed functions and resource transfer, leaving all details of organization to states by flexible legislation.
- Reservations should apply to elected councils, and not for executive offices of chairpersons, so that leadership is nurtured and sustained.
- A significant share of not less than 33 percent Union transfer of resources to states should go to local governments. Functions and functionaries will follow, as states would want to reduce financial burden, and will be eager to transfer them to local governments.
- Transfer of resources should be to local communities and stakeholder teams as far as practicable, so that local people directly participate in decision-making and derive benefits of decentralisation. For instance, the smallest unit of *panchayats*, and ward committee in a municipality are closest to people, and most resources and decision-making authority should flow to them.
- In education, healthcare, water management, and other sectors, stakeholders should be formally empowered at local level in a transparent manner with full authority and accountability.
- In each district and major city, there should be an independent, empowered Ombudsman institution by law with the resources and power to swiftly investigate, penalise, and punish all wrong doing by elected politicians or bureaucrats in local governments.
- The Legislative Council (where it exists) composition should be changed by law under Article 171, so that it becomes council of local governments representing both urban and rural local governments at par with Rajya Sabha at the union level functioning as Council of States.
- An effective and elected district government comprising of both rural and urban local governments should be the goal as a third tier of federalism. A district in India is larger than half the nations of the world and has great diversity and is the true unit for political participation and collective action in India.
- A single Election Commission and common electoral rolls for Parliament, State Legislature and local governments are necessary to avoid confusion, and to give legitimacy to local governments at par with the Union and states.
- A concerted effort should be made to reconstitute village *panchayats*, so that a country or cluster of villages will become the unit of self-government. This will neutralise the traditional hierarchies in a village, give economies of scale, facilitate introduction of technologies, and enable professional management of local governments.
- Local police functions like investigation of petty offences, traffic management, patrolling and simple law and order problems should be under local control.

- The Gram Nyayalaya Act, 2009 should be extended to all urban areas as local court law, and a local court should be created to try all simple civil and criminal cases with summary procedures as an integral part of independent justice system under the High Court's overall supervision.
- Jurisdictions of various authorities – electricity, water supply, roads, local police, local courts – should be coterminous as far as practicable so that there is complete convergence of services.
- As far as practicable, all citizen services should converge. In Germany, citizens need to approach the municipality even for passport services. While passport is a federal service, the point of contact is local government.
- A service guarantee law should be enacted at national level to be applicable to all states and local governments, and enforced to ensure timely delivery and penalties for non-performance, along with grievance redressal mechanism. (Such laws exist in several states; but there is need for a legislation applicable to state and local governments all over the country)
- Call centres should be established for each city and cluster of local governments so that citizens can directly access the service provider, and all interactions and service delivery can be monitored.
- The legislators should be given legitimate, enhanced role in shaping public policy, legislation, directing public expenditure and holding state government to account through empowered and effective legislative committees and improved legislative procedures and processes.

## **Conclusion**

India is at cross roads. Our liberal democratic institutions have served us well, and we could survive as a united entity and a stable democratic polity. We could preserve our freedoms and achieve moderate levels of growth. But we have vastly underperformed relative to our potential, and compared to other similar societies. We have the potential to emerge as an economic giant and a global power. But real growth and prosperity are possible only if we involve people in governance, empower third tier of federalism, nurture leadership and harness grassroots energies. We have squandered precious time and the nation paid a heavy price for our failure to involve people in governance and incapacity to deliver basic services. Status quo is unsustainable and detrimental to our future. A lot needs to be done to make our democracy function in tandem with people's aspirations and to help us fulfil our potential. The most vital, urgent step in this transformation is empowerment of local governments and stake holders.

*\*The author is the founder of Lok Satta movement and Foundation for Democratic Reforms. Email: [driploksatta@gmail.com](mailto:driploksatta@gmail.com)*

- 22<sup>nd</sup> Oct 2016