

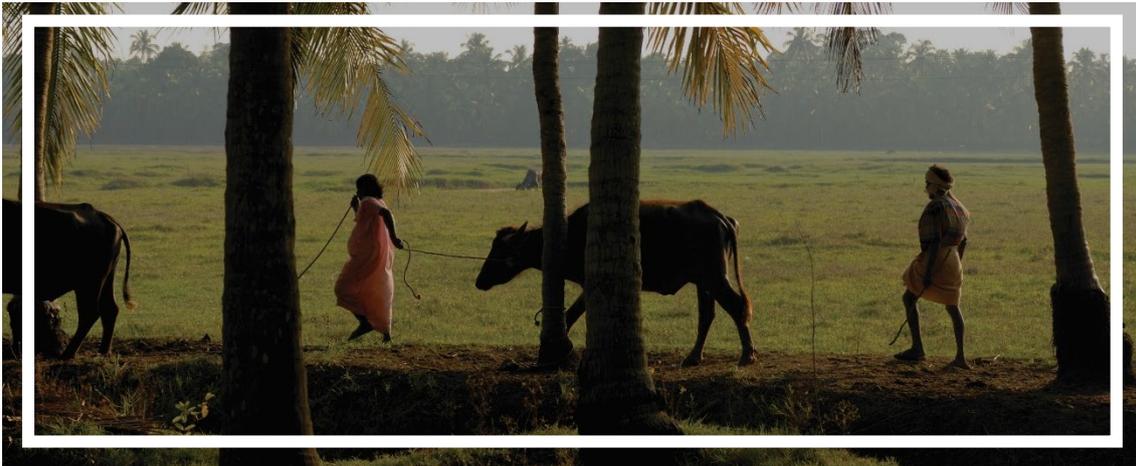


« NAGAR RAJ BILL ACT »

Various rural territories, India

Period of implementation: 2006 (launch) | Study case written in 2010

The Nagar Raj Bill Act, which means 'town governance bill', was introduced in 2006 under the flagship programme Jawaharlal Nehru National Urban Renewal Mission (JNNURM). For urban areas, the central government circulated a model of the Nagar Raj Bill Act to all the States. The State governments are required to pass this Bill, with whatever modifications they want, if they wish to access funds available under Jawaharlal Nehru National Urban Renewal Mission (JNNURM). The central model proposes to divide each municipal ward into several 'Areas', each consisting of about 3000 voters. The voting population of an area would be called an *Area Sabha*, which has been given some powers. These amendments have been prepared after a series of consultations with eminent people and grassroots activists. The entire programme consists of various policies within its framework, such as the Community Based Governance Policy for decision-making and decision support, called the Model Nagar Raj Bill; Inclusive Slum Development; Inclusive City Planning; and policies emphasizing Public Transport.



The **Inclusive Cities Observatory** was launched in 2008 by the UCLG Committee on Social Inclusion, Participatory Democracy and Human Rights with the aim of creating a space for analysis and reflection on local social inclusion policies. The initiative was developed with the scientific support of Professor Yves Cabannes (University College of London) and the Centre for Social Studies (CES) from the University of Coimbra. At present, the Observatory contains more than sixty study cases mostly developed between 2008 and 2010. Even though many of these cases refer to policies that have already come to an end, they still have much to offer: from capitalizing on the learning acquired by other local authorities to discovering suggestive and alternative means to address social inclusion challenges from a local perspective.

Context

Government and decentralization context

The 74th Constitutional Amendment, enacted in 1992, aimed to decentralise and devolve power to local authorities. It also envisaged participatory democracy in local decision-making and at other local and governments levels. Since the passing of the 74th Constitutional Amendment Act on municipalities, a 'slow process of urban decentralization has been set in motion' (Wit, Nainan & Palnitkar 2008). Under the Consitution, urban development is a State government responsibility, so the Central Government can only suggest the changes, and actual changes in the Act needs to be brought out by the respective State Governments (around 30 States) in India.

In the late 1990s, an urban reform process started in India with the abolition of the Urban Land Ceiling Act and introduction of a flagship programme called the Jawaharlal Nehru National Urban Renewal Mission (JNNURM). With this process, the Central Government introduced various urban reform measures along with financial support. The JNNURM addresses (a) urban infrastucture and governance and (b) basic services to urban poor (Government of India 2006).

The Nagar Raj Bill was one of the suggested reform processes to encourage participatory decision-making. The Central Government, to encourage the vast urban reform process, generated a *model* Nagar Raj Bill, which all the different States were expected to enact as part of the reform process. The State governments are required to pass this Bill, with whatever modifications they want, if they wish to access funds available under Jawaharlal Nehru National Urban Renewal Mission.

The Act is not yet applied in all States. However, some States - such as Andhra Pradesh, Kerala, and Karnataka - had already introduced similar measures much before the central advisory occurred. This community participatory process was initiated to enable local communities to plan and implement their own infrastructure requirements and other aspects of governance from the local level to the city level.

Through this three-tier democratic structure, the Nagar Raj Bill Act enables the local population to have a say in planning and decision-making processes across the different States of India.

Social context

India has a strong rural background and is a country where attachments to its agricultural and rural origins continue to be very deeply felt. In the past, participatory processes were a consistent part of discourses aimed to develop the bottom-up interactions to change society. As Ramanathan (2007) notes,

India stands at the inflections point of two critical trends: the increasing importance of local governments, and a critical mass of urbanization. Both of these have a physical implication for governance outcomes on a range of important quality-of-life issues for citizens. Citizen participation is not just a moral argument, it is a strong accountability mechanism for local government. While rural participation is imbedded in the Constitution, city involvement in the urban area is still very indirect. This needs to be urgently corrected. ... There are credible reasons to believe substantial benefits can accrue by creating institutional mechanism for citizens' participation in urban area.

The Nagar Raj Bill Act is a solution that tries to address this situation by directly empowering people from the grassroots level of the local society, in urban and rural areas. This is also one of the principles at the foundation of the 74th Amendment Act. Although this singular policy statement applies nation-wide, its application in each State varies with the political orientations and priorities of each State.

Policy development

The model Nagar Raj Bill is a national policy that aims to augment community-based decision-making, improving unofficial local systems of aggregation and participatory committees that have developed in Indian democracy over time. Introduced in 2006, the model Nagar Raj Bill – meaning ‘town governance bill’ – aims to enable people at the grassroots level of society to make decisions for themselves in terms of physical infrastructure planning. The Nagar Raj Bill Act applies across several systems to try to understand what inhabitants want, where they want it, and how they want to proceed and to manage this process through participatory democratic norms. The Act aims at viability, accessibility, acceptability, adaptability and, above all, to be accountable to the people for whom it is meant.¹

Under the Nagar Raj Bill Act, the Government of India has come out with a model *Neighbourhood Planning Policy*. This central model proposes to divide each municipal ward into several ‘Areas’, each consisting of about 3000 voters. The voting population of an area would be called an *Area Sabha* or *mohalla sabha*, which has been given some powers. The *mohalla sabha*, the smallest administrative unit in a local authority, could also be viewed as an institutionalized ‘neighbourhood association’:

Each municipal ward should be divided into small mohallas of population of roughly 3000 each. The assembly of all voters in a mohalla will be called mohalla sabha. One representative of each mohalla sabha will be elected through elections conducted by state election commission. All mohalla sabha representatives in a ward will constitute ward committee. The ward councillor will be chairperson of that ward committee. Mohalla sabha will manage affairs of a mohalla and ward committee, in consultation with all mohalla sabha in that ward, will manage ward affairs. (Lokraj Andolan 2009b)

The rules and the aims of the application of the Act can be seen as a movement for improved self-governance:

- Boundaries of Mohalla Sabhas would be carved out in consultation with the people.
- Mohalla sabha will have the power to recall the mohalla sabha representative and councillor.
- Mohalla sabha and ward committee will have independent sources of revenues – they would have powers on some subjects to levy and collect taxes from their mohalla/ward. They would also get untied funds from the municipality, state and central government.
- Monthly meetings of mohalla sabha shall take place. People would take decisions collectively in mohalla sabhas and mohalla sabha representative, along with the local

¹ For example, in Maharashtra, an *Area Sabha Act* was created following the statements and intent of the Nagar Raj Bill Act, involving the Mumbai Municipal Corporation Act, Mumbai Provincial Corporation Act, The City of Nagpur Corporation Act, the Maharashtra Municipal Council, Nagar Panchayat and Industrial Township Act (Janwani 2011). The Act aims to increment participatory democracy – the concept behind *Area Sabha* is to empower people from the bottom. This example demonstrates the potentialities enacted from the application of the policy in diverse territories.

officials will just implement them. Mohalla sabha will make annual plans – what works should be carried out in that mohalla and at what places.

- Mohalla sabha shall have the power to summon local officials ...
- Mohalla sabha shall have the power to impose financial penalty on local officials if they do not perform like they should (if the teacher does not teach properly, if the mali does not work properly, if the sweeper does not come on time ...).
- Utilization certificate shall be issued by mohalla sabha, only after which final payment could be made to the contractor.
- Mohalla sabha shall have the power to cancel the ration shop if he/she does not give proper rations. Mohalla sabha shall also have the power to appoint a new ration shop.
- Mohalla sabha shall ensure that no one is homeless, no one starves, no child is out of school and every one has adequate health facilities in that mohalla.
- Ward committee shall do the same jobs as mentioned above and shall have the same powers with respect to the ward.
- Mohalla sabha shall issue residence and income certificates to its residents.
- No slums can be removed unless government has adequately rehabilitated the affected people and this satisfaction should be issued by the mohalla sabha of the affected area.
- All decisions shall be taken in mohalla sabha in open.
- Any mohalla sabha, through a resolution passed by two-thirds majority, can require the municipal corporation to discuss and decide upon any matter and municipality shall have to do it. (Lokraj Andolan 2009b)

Under this arrangement, the State government and municipality cannot make any schemes, projects, or programs that have to be implemented at the *mohalla* or ward level. All affairs at the *mohalla* or ward level must be dealt with by the *mohalla sabha* or Ward Committee respectively. The State government involves itself only with projects that have state-wide implications. The Municipality involves itself only with projects that have inter-ward implications. These arrangements create clear demarcations in the roles and responsibilities of various tiers of governance, improving the responsibility of each level in the decision-making system.

Background

Participatory democracy in India existed before the appearance of this Act, from the Gandhian era. Gandhi wrote about village self-sufficiency both in terms of participatory democracy and decision-making processes, but also in terms of common property ownership and monitoring. Later on, Rajiv Gandhi reintroduced the 73rd and 74th Constitutional Amendment Acts in the early 1990s to give powers to the third tier level of democracy: the local government. Under these Acts, the local authority can prepare their own plans, mobilise their own resources, and implement the same without interference from higher level administrative units (i.e., State and Central Governments). The 73rd Act was accepted by all the States, with each State government

later coming out with minor variations from the 73rd and 74th Amendments to include even more powers for the local units.²

While there are variations among the States in introducing this participatory process, some of the Southern States, such as Kerala, Andhra Pradesh, and Karnataka, have accepted and introduced the reform at the local level. Kerala State, for example, choose a long list of more than 200 functions that can be performed by the local authority. In 2000, Kerala State officially introduced a 'people's planning campaign' whereby planning and decision-making was transferred to local authorities at the city/town level and further down to Ward Committees below the city/town level, where participation was ensured through regular Ward Committee meetings. Karnataka State adopted the inclusion of NGOs/CBOs in the decision-making process at the local level and also introduced the participation of NGOs/CBOs at the ward level decision-making process. Andhra Pradesh State introduced a School Education (Community Participation) Act in 1998 (later adapted by the Central Government within the Nagar Raj Bill), which addressed the participatory process below the city level, introducing the system of *Panchayati Raj*, focusing on democratizing interventions from the grassroots, with community-based participation introduced within Ward Committees.

Policy goals

- To institutionalize citizens' participation and strengthen democracy
- To catalyse and recognize participation at the grassroots level
- To identify the real needs of people and propose bottom-up solutions
- To implement a need-based supply of infrastructure
- Inclusiveness of women, *dalits*, Scheduled Caste, Scheduled Tribe, etc. in decision-making³

Chronological development

The model Nagar Raj Bill was introduced in 2006, informed by participatory practices already existing at the local level in various forms (see Background section). Since the model Bill was introduced, it has been applied at the local level in some States. These States have interpreted it, following local necessities and developing particular geographic-specific applications, while following the rules of the Jawaharlal Nehru National Urban Renewal Mission (JNNURM).

Stakeholders, beneficiaries and participatory methodologies

Beneficiaries

The policy is addressed, broadly, to all the community. It aims to implement processes of inclusion for all groups that compose the urban society and the local community, from the small association of local inhabitants of neighbourhoods to the individual. The policy's scope includes local people, civil society, local politicians, informed citizens, and marginalised citizens.

² The 73rd Amendments are oriented to participatory processes in rural areas while the 74th Amendments relate to participatory processes in urban areas.

³ The terms Scheduled Caste (Scs) and Scheduled Tribe (Sts) are caste subdivisions that are formally recognized in the Constitution of India and that represent very poor people at the bottom level of Indian society. Dalit are tribal people, also known as 'untouchables', who are outside the caste system and outside the normal system of law.

Nature of participation / Participation processes implemented

As the Act is applied differently in different areas of the country and implementation is still in process. Most commonly found is the participation of the general public through their elected representatives and informed citizens of the area, and also the participation of civil society to plan and implement the local requirements of that area.

There have been some issues linked with the meaning of *participation*, and this concept still remains weak as the general public hardly participates in decision-making processes directly. One possible reason for this issue is the public's lack of knowledge of the way of the policy works. For example, the *People's Planning Campaign Kerala* started carrying out participatory ward-level project implementation, with the following system: people come to the ward office to participate in the implementation of a project through Ward Committees. Outside the ward's office, a board is kept to inform what kind of project has been taken up and where it has been taken up. All people are free to comment and make proposals, and then all suggestions are taken up for improving implementation mechanisms.

It is a system of completely decentralized power based in a shared problem-solving approach that mixes social and economic issues with the environmental necessities, the existing natural resources, and the energies that are in the same territories. It is a 'waterfall system' from the village to the block levels. At the ward level, there are diverse approaches: the primary level of working and interacting with local inhabitants involves participatory mapping, focus group discussions, and target group discussion; at a secondary level, residents interact with specific local offices, for example, for forestry, geology, agriculture, animal husbandry, or education. The final process of decision-making is a result of mixed interactions from the village to the ward level, interconnecting social and physical data collection.

Institutionalization and financing

Ward budgets, through which the projects are implemented, are prepared by Ward Committees and approved as part of the Municipal budget. Formally no extra founding is available for carrying out this reform.

Outcomes and reflections

Key results and achievements

The cases presented below are some examples of the different kinds of application that the policy can have in different States:

Andhra Pradesh: The State of Andhra Pradesh in South India started implementing the Nagar Raj Bill as 'Community Participation Law' in the City of Hyderabad. The Law was, in the context of Hyderabad, positively evaluated for its functioning and the impact it has generated for the poor: a real empowerment from below.

Kerala: The State of Kerala is known for democratic decentralization and began implementing citizen participation policies prior to the formation of the Nagar Raj Bill, probably due to its past communist political background. The State has delegated administrative, fiscal, and political powers to local authorities: both urban and rural areas of the State have implemented these delegated powers in terms of budget allocations and administrative and political decentralization. Budgets are formed through participatory budgeting at the local level with

Ward Committees acting as a strong hub for decision-making, open to all the society levels – an accessible platform of participatory actions for all the community.

Overall assessment and replicability

The Nagar Raj Bill Act is significant in that it provides a legal and institutional framework for local citizen participation, thus making participation more effective and sustainable. It envisages the creation of numerous information channels to provide greater access to information and the enactment of similar state legislation to ensure that an effective check and balance mechanism is in place for urban local governance. Substantially, the Act creates effective and enduring institutions of local self-governance in urban areas, which enable and empower people to solve their local problems and realize their democratic rights. It is also important to appreciate the underlying message of this Bill: respect for the opinion of local beneficiaries of welfare and public amenity schemes without the application of external standards.

The Act has different meanings in different parts of the republic. This means local policies must be interpreted together with their implicit positive and negative meanings. At the national level, the Bill will increase people's ability to take part in urban planning, which did not exist in India, especially at the local level. It also brings transparency to local planning and decision-making processes and actions. The Act may work better in small contexts because its application might be more transparent there.

Replicability

The application and realization of the policy may be more fruitful in the Indian contexts than in other countries due to its democratic political background and the decentralized organization of political power, which can enable more effective policy application. Within a global context, it is interesting to consider an observation regarding the presence of similar policies in other Asiatic countries:

In order to better appreciate the structure and substance of the Nagara Raj Bill, reliance must be placed on the community participation laws and institutions in other countries. In comparison with other Asian countries, India has one of the most decentralized systems of governance at state level and councils at district, block and village level and the 73rd and 74th Constitutional Amendments introducing panchayats and municipalities as means for participation. In Nepal, the constitution and the Local Self Governance Act, 1999 calls for wider participation of the people by way of decentralization which takes the form of village and district development committees. Bangladesh has a similar law and follows a four-tier system of local government, at village, union, and at the district levels to ensure direct participation. As regards Southeast Asia, the Philippines with the Local Government Code of 1991 and its *barangay* system of local councils (which include participatory development planning initiatives), has the most elaborate legal framework for citizen participation and recognizes the vital role that civil society can play within different aspects of local governance. In Thailand, the level of citizen participation in urban governance is low due to the slow implementation of the Decentralisation Act of 1999 which was passed to create local government units and empower them to collect taxes and receive higher allocations from central government.

Latin American countries also have laws and policies to ensure community participation and this region has witnessed the incorporation of neighbourhood committees (Mexico), consultative bodies (Brazil) and territorial base organizations as platforms for citizen participation (Bolivia). Lastly, while African countries lag behind in terms of community

participation laws and institutions, developed nations including USA, England, Finland and Switzerland have adopted ways to ensure direct participation of the people in policy decisions and empowerment programmes. (Aditya 2011)

In this sense, the Bill's replicability in other contexts may be possible. The sensitive area is its proper application and adaptation to such diverse geo-political zones and conditions. As in India, the development of this participatory system is directly related to its political traditions, particularly those related to rural village origins of taking collective decisions.

Further information

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