

PANCHAYATH RAJ IN INDIA THE GREATEST EXPERIMENT IN DEMOCRACY EVER

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ABSTRACT

An attempt is made in this paper is to analyse the Panchayath Raj in India the greatest experiment in democracy. Panchayati Raj in India, in terms of the size of the electorate, the number of grassroots institutions (about 2.4 lakh) the number of persons elected – 36 lakh in the Panchayats and Nagarpalikas, higher than the entire population of Norway – and in terms of the empowerment at the grassroots of women is the greatest experiment in democracy ever undertaken anywhere in the world or at any time in history. No less than 10 lakh women have been elected to our Panchayati Raj Institutions, constituting some 37 per cent of all those elected and rising to as high as 54% in Bihar which has 50% reservations for women. There are also reservations for the scheduled castes, the scheduled tribes and the other backward classes in proportion to their share of the population in each panchayat area. An experiment on this scale is bound to have shortcomings and setbacks, and would need course correction. It is a social revolution that its founder in its present constitutional shape and form, Prime Minister Rajiv Gandhi, once remarked would take at least a generation to fully unfold. But it is equally necessary to take stock of the successes achieved so far so as to invest this Review and Appraisal with a sense of balance, proportion and perspective.

Keywords: PRIs, democracy and rural India.

INTRODUCTION

Panchayati Raj is the medium to transform rural India into 700 million opportunities. The key instrument for integrating economic reforms with institutional reforms in the country side is Gandhiji's far sighted goal of Poorna Swaraj through Gram Swaraj. This was given Constitutional shape and sanction by the late Shri Rajiv Gandhiji's vision of empowering Panchayati Raj Institutions to function as 'institutions of self government', to plan and implement programmes of economic development and social justice.

The mandate of the Ministry of Panchayati Raj is enshrined in Part IX of the Constitution ("The Panchayats") read with Article 243 ZD of Part IXA relating to the District Planning Committees and the Eleventh Schedule which illustratively sets out a list of 29 matters, which might be considered by State Legislatures for devolution to the Panchayats in respect of the **planning of economic development and social justice** as well as the implementation of "entrusted" schemes of economic and social development in such a manner as to ensure that they function as "units of self-government".

However, the Constitutional conundrum faced by the Ministry is that while its first and most important duty is to ensure conformity to these Constitutional provisions, the same Constitution charges the States, not the Centre, with the responsibility for devolution. The mandatory provisions of the Constitution in respect of Panchayati Raj are limited to such institutional matters as:

- The constitution of panchayats at the three levels of "village", "intermediate" and "district" (except that the intermediate level may be dispensed with in States with a population of under 20 lakhs);

- Regular five-year elections to these panchayats, with elections within six months if a panchayat is dissolved for any reason whatsoever;
- Stipulated reservations for women and historically disadvantaged sections of society such as scheduled castes and scheduled tribes, including SC/ST women (and an enabling provision for reservation in favour of the Other backwards Classes)
- The constitution of District Planning Committees (DPCs) through the election of at least four – fifths of the members by, from and amongst the elected members of the district Panchayat and the Municipalities in each district. The DPC is required to “consolidate” the development plans prepared at each of the three levels of Panchayats and the Municipalities within the district into a “**draft district development plan**” which is then to be forwarded to the state government. The remaining one-fifth of the DPC members are to be nominated by the state and could include MPs/MLAs as well as civil society experts who could assist in the planning process with their technical expertise;
- The obligatory establishment of State Election Commissions and State Finance Commissions (whose recommendations may be accepted rejected or modified by the State Legislature, not mandatory as in the case of the Finance Commission at the Center).
- Central Panchayati Raj legislation for the application of Panchayati Raj provisions to the Fifth Schedule areas [The provisions of The Panchayats (Extension to Scheduled Areas) Act, 1996, popularly referred to by its acronym PESA].
- Exemption from the Panchayati Raj provisions for Sixth Schedule areas and certain other specific areas (such as the jurisdiction of the Darjeeling Gorkha Hills Council).

For the rest, the processes and content of the devolution of functions, finances and functionaries-the crux of Power to the Panchayats – are vested entirely in State Legislatures, reinforcing the inclusion of Panchayati Raj in the State List of the Seventh Schedule.

SEVEN ROUND TABLES

Thus the Constitutional order makes it imperative that a natural consensus be evolved through mutual consultation between the Centre and the States on the Roadmap for Panchayati Raj. To this end, the first task to which the fledgling Ministry addressed itself was the convening of no less than seven Round Tables of State Panchayati Raj ministers with the Union Minister, within the space of a mere 150 days between July and December 2004, to discuss the 18 identified dimensions of Panchayati Raj ranging from the effective Devolution of the three **Fs-Functions, Finance, Functionaries** – to District Planning, Training and Capacity Building and IT-enabled e-governance.

FOLLOW-UP TO THE ROUND TABLES/TOURS OF THE STATES/JOINT STATEMENT WITH CHIEF MINISTERS

At the conclusion of each Round Table, action points were drafted and accepted by consensus; at the conclusion of all the Round Tables, the totality of nearly 150 action points comprised in the Compendium were unanimously adopted by all panchayati Raj Ministers and referred to Chief Ministers for their approval. No objections were received and thus was launched the National Roadmap for effective Panchayati Raj and rural sustai noble development. To monitor its progressive implementation, it was decided to constitute a Committee of Panchayati Raj Secretaries of service the Council of Panchayati Raj Ministers. Thus far, the Committee of Secretaries has held seven meetings. The Council of Ministers has been convened twice, at Kochi in August 2005 and at Bhubaneswar in June 2006.

Moreover, the chairmanship of the National Development Council's Empowered sub-Committee on Devolution has been entrusted to the Ministry of Panchayati Raj and two meetings have since been held in New Delhi in June and September 2006. The third meeting has been scheduled for 11 January 2007, thereby fulfilling the NDC's injunction that the Sub-Committee meet every quarter.

To reinforce the conclusions set out in the Round Tables compendium and the directions of the Empowered Sub-Committee, union Panchayat Raj Minister have undertaken between April 2005 and October 2006, a series of Panchayati Raj tours to 17 States and 2 Union Territories, covering 150 Panchayati Raj Institutions, including 73 Gram Panchayats/Gram Sabhas, 35 Intermediate Panchayats at block/mandal/union/anchal level, and 42 District Panchayats. I hope to complete similar tours of the remaining states and UTs these tours are generally undertaken in the company of the State Panchayati Raj Minister (or Union Minister of State for union Territories) and is crowned by a Joint Statement of Conclusions signed by the Chief Minister and union Panchayath Raj Minister (MoS, Home and myself in the case of UTs) highlighting.

- The present status of Panchayats in the State/UT concerned.
- The steps which the State/UT commits itself to undertaking (sometimes in a time-bound manner) to strengthen its Panchayati Raj
- And the supportive steps which the Union Ministry pledges, to back up the processes of devolution in the State/UT concerned.

PRIORITY AREAS FOR EFFECTIVE PANCHAYATI RAJ

The priority areas for immediate concerted action are:

- **Activity Maps:** the indispensable need for the preparation of detailed Activity Maps for the devolution of Functions clearly spelling out the activities with respect to each devolved function which are to be attributed to each level of the three-tier Panchayati Raj system so that there is no ambiguity at any level about the tasks entrusted to them or any overlapping of duties. Ministers of Panchayati Raj have agreed that ideally such devolution of activities should be undertaken on the principle of subsidiarity which holds that any activity which can be performed at a lower level should be undertaken only at that level and at no higher level.

PANCHAYATI RAJ A BRIEF HISTORY AND BACKGROUND

Ever since her "Tryst with Destiny", India has been a full-fledged, stable and uninterrupted democracy. But while this has made India the world's largest democracy, as Prime Minister Rajiv Gandhi remarked in 1989, India, at that stage, was also the world's "Least representative democracy." This was because there were then a mere 5000 or so elected representatives in Parliament and the state Assemblies to represent nearly a billion people.

Now, thanks to the Constitutional amendments of 1992, initiated by Prime Minister Rajiv Gandhi in 1989, we have nearly 32 lakh (3.2million) elected representatives, including 12 lakh women, and scheduled castes, scheduled tribes and, in many states, other backward classes. These are represented in proportion to their share of the population in each ward, in the elected rural and urban local bodies, that is, the Panchayats and the Municipalities. At the Village Panchayat level, the constituency of each Panch (ward member) comprises an average of 70 families or approximately 340 people. In terms of numbers, this is an achievement on a scale without parallel in the world and without precedent in history.

A BRIEF HISTORY OF PANCHAYATS AND PANCHAYATI RAJ

As mentioned in the Rig Veda, the oldest written text of our recorded history, village communities across the sub-continent were self-governing over millennia, serving as the main interface between the predominantly agrarian village economies and the higher authorities. Custom and tradition elevated these earlier councils or assemblies called “sabhas” to a position of considerable authority. Slowly, they assumed the form of the “panchayat” (an assembly of five respected elders). These panchayats in north and south India became the pivot of administration, the focus of social solidarity and the principle forum for the dispensation of justice and the resolution of local disputes. During the medieval and Mughal periods these characteristics of the village panchayats remained unchanged.

LOCAL GOVERNMENT IN BRITISH INDIA

At the advent of British colonial administration, Sir Charles Metcalfe, the provisional Governor General of India (1835-36), referred to the Indian village communities as “little republics”.

In urban areas, a municipal corporation came to be formed in Madras, on the British model of a town council, as early as 1687. The Madras Municipal Corporation was empowered to levy taxes for building schools, and was endowed with guildhall. As the sphere of activities of this corporation expanded (as happened in similar bodies set up in other major towns), correspondingly, their powers of taxation also widened. These municipal corporations symbolized local government of a sort, but continued to comprise nominated members with no elective element whatsoever.

In 1870, Lord Mayo, Governor General-in- Council, secured the passage of a resolution for the decentralization of power aimed at bringing about greater administrative efficiency in meeting the demands of the people but primarily designed to augment Imperial finances. The “existing Imperial resources will not suffice for the growing wants of the country” he held. At about the same time, a first significant first step towards reviving the traditional village panchayat system in Bengal was taken through the Bengal Chowkidari Act, 1870, which empowered District Magistrates to set up Panchayats of nominated members in the villages. These nominated Panchayats could levy and collect taxes to pay for the chowkidars, or watchmen, engaged by them. The Famine Commission of 1880 pointed to the absence of local bodies as a major impediment in delivering relief supplies to famine-stricken people, and underlined the need to expand self-government to the villages as well.

Part IX: “The Panchayats” — A Summary

The principal provisions of Part IX of the Constitution^o relating to The Panchayats are summarized below:

Article 243-A,

places the ‘aam aadmi’ (common man) at the centre of Panchayati Raj, by giving constitutional recognition to the ‘Gram Sabha’ as ‘a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of the Panchayat at the village level’. The Constitution stipulates that a Gram Sabha may exercise such powers and perform such functions at the village level as the Legislature of a State may, by law, provide. The Gram Sabha is the only forum that can ensure direct, participative democracy. It offers equal opportunity to all citizens of a village or cluster of villages to discuss and criticize, approve or reject proposals of the Panchayat executive and also assess its performance. It is the platform for effective social audit, which lies at the core of ensuring transparency and accountability in the functioning of the system. To this end, there is need to accord clearly enunciated statutory powers and authority to the Gram Sabha.

Article 243B

Defines the 'Panchayat' as an 'institution of self-government constituted for the rural areas'. It also makes it mandatory for all constituencies, intermediate and district level in accordance with the provisions of the Constitution, with the exception that States with populations of less than 20 lakh need not constitute Panchayats at the Intermediate level.

Article 243C,

which deals with the composition of Panchayats, mandates that all seats in Panchayats shall be reserved for Scheduled Castes and Scheduled Tribes in the Panchayat area. It also mandates that a Chairperson of the Panchayat would be elected by and from among the elected members thereof. An exception is made in the case of village Panchayats, where, if a State so wishes, it can provide, through law, for direct elections for the Chairperson of the village Panchayat. Each Panchayat is to be elected for a period of five years and elections to the next Panchayat shall be completed before the completion of the term of the existing Panchayats, to ensure the continuity of elected representation.

Article 243D

provides that at least one-third of the elected seats and offices of Chairpersons at all three levels of the Panchayats are reserved also provides that seats and offices are to be reserved for Scheduled Castes (SCs) and Scheduled Tribes (STs) in proportion to the size of their populations within that Panchayat, subject to one-third of these seats/offices being reserved for women belonging to these categories. There is also an enabling clause for States to provide reservations, on a similar pattern, for the other backward classes (OBCs). The allocation of reserved positions for various categories is to be by rotation in such manner as may be determined by the State.

In a society that was and still remains fractured by discrimination based on caste and gender, Article 243 D is the harbinger of nondiscrimination against disadvantaged sections and justice for all in village India.

Articles 243E and 243F

Provide for elections to Panchayats to be held within a period of five years and, in the event of dissolution for any reason whatsoever, for by-elections to be held within six months. The latter Article specifies the grounds on which candidates might be disqualified from contesting elections. While a few States have introduced the two-child norm (Madhya Pradesh: three-child) to disqualify candidates, it may be noted that Article 243E does not stipulate this. Accordingly, the Ministry is working with State governments concerned to try to remove this extra-Constitutional disqualification.

Article 243G read with the Eleventh Schedule,

Stipulates that States may by law endow the Panchayats with such powers and authority as may be required to enable them to function as institutions of self-government. Such laws may also provide for the devolution of powers and responsibilities upon Panchayats for the preparation of plans for economic development and social justice and implementation of schemes for economic development and social justice as may be entrusted to them, including those in relation to the 29 matters listed in the Eleventh Schedule, as illustrative of being devolved to Panchayats.

In order that the devolution of powers and responsibilities to Panchayats is worthwhile and relevant to the lives of the people within their jurisdiction, it is essential that finances are devolved to them on the pattern of the devolution of functions to administer these tasks and responsibilities and that technical and administrative staff to assist Panchayats in carrying out their duties are placed at the disposal of the Panchayats and brought within the ambit of Panchayat discipline. Hence the stress in the National

Common Minimum Programme on the devolution of the three Fs: Functions, Finances, and Functionaries as the basic prerequisite of effective Panchayati Raj. Hence too the fundamental importance that the Ministry attaches to Activity Maps that clearly and unambiguously spell out the activities to be undertaken by the Panchayats at each of the three levels in respect of each devolved Function.

Article 243H

Empowers the State Legislature to authorize Panchayaths to levy, collect and appropriate designated taxes, duties, tolls and fees, and provides that assigned to Panchayats from the Consolidated Fund of the State.

Article 243-I

Specifies that the Governor of a State shall within one year the commencement of the 73 Amendment, and thereafter at the expiration of every fifth year, constitute a State Finance Commission. The State Finance Commission is to review the financial position of the Panchayats and to make recommendations regarding the allocation of funds to Panchayats, the determination of taxes, duties, tolls and fees which may be assigned to or appropriated by the Panchayats, as also “measures needed to improve the financial position of the Panchayats” or any other matter relating to the “sound finance of the Panchayats”.

Article 243J

Gives the States the power to make by law provisions with respect to the maintenance of accounts by the Panchayats and for their audit.

Under Article 280, which deals with the constitution and duties of the Central Finance commission. A new clause has been added which states that the Central Finance Commission, shall make recommendations to the President as to the measures needed to augment the Consolidated Fund of a State to supplement: the Resources of the Panchayats in the state on the basis of the recommendations made by the finance commission of the State.

Article 243K

Mandates that the superintendence, direction and control and conduct of all elections to the Panchayats shall be vested in an independent State Election Commission consisting of a State Election Commissioner to be appointed by the Governor. The State Election Commissioner is also responsible for the preparation of electoral rolls for Panch.ayat elections.

While Article 243 L

Extends the provisions of Part IX to the Union Territories, under certain terms and conditions; Article 243 M gives to Parliament the power to extend the provisions of Part IX to the tribal areas listed in the Fifth Schedule. It is in exercise of these powers that Parliament passed the Provisions of The Panchayats (Extension to Scheduled Areas) Act 1996, better known by its abbreviation, PESA.

Article 243M

Also exempts certain States and certain areas covered by the Sixth Schedule, as also certain other States and regions covered by separate special arrangements, from the purview of Part IX. Moreover, the Article exempts Arunachal Pradesh from necessarily making reservations for the scheduled castes.

The final provision in Part IX, **Article 243N**, provides a one-year grace period from the entry into force of Part IX to bring all laws dealing with the Panchayats into conformity with Part IX of the Constitution.

District Planning Committees (DPCs)

Article 243ZD

In Part IXA1 of the Constitution provides for constitution of District Planning Committees (DPC) by the state governments in every district where Part IX applies, and is a milestone in decentralized planning. The DPCs are required to “consolidate” the plans prepared by the Panchayats and Municipalities in the district, and, on this basis, to formulate a draft development plan for the district as a whole. Four-fifths of DPC members are to be elected by and from amongst the elected representatives of the District Panchayat and the Municipalities in the District. Each DPC has the authority to take decisions regarding matters of common interest between the Panchayats and the Municipalities, including spatial planning, sharing of water and other physical and natural resources, as also the integrated development of infrastructure and environmental conservation in the districts concerned.

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