



## **Discussion Paper Series - 1**

# **Decentralisation in India Challenges & Opportunities**



**United Nations Development Programme**  
**55, Lodi Estate**  
**New Delhi - 110 003**  
**India**

---

## **ACKNOWLEDGMENTS**

This discussion paper was prepared under the guidance and leadership of Dr. Brenda Gael McSweeney, UNDP Resident Representative & UN Resident Coordinator. The team from the HDRC comprises of the following: Dr. K. Seeta Prabhu, Dr. Suraj Kumar, Ms. Elena Borsatti, Mr. V. Srinivasan and Ms. Aparna Pande. Dr. R. Sudarshan developed the theme and outline of the paper.

We acknowledge with thanks the contributions of the following resource persons who prepared background papers for this study: Mr. Amitabh Mukhopadhyay, Prof. Niraja Gopal Jayal, Mr. S. S. Meenakshisundaram, Dr. Solomon Benjamin and Dr. Vinod Vyasulu.

Dr. Suraj Kumar and Mr. Peter Siegenthaler conducted a decentralisation mapping exercise of the UN system in India, for the India United Nations Development Assistance Framework, whose findings have been incorporated into the Paper. We would like to thank all members of the UN family for their cooperation and inputs.

We thank Ms. Daman Singh, Dr. Junaid Ahmed, Dr. P.S.A. Sundaram, Mr. R. Gopalakrishnan, Dr. Rajan Katoch, Dr. Ramanath Jha and Dr. Satyajit Singh for their suggestions and input on earlier outlines and drafts of the paper. The paper also benefited from feedback from colleagues within UNDP India Country Office.

Finally, we wish to thank all the participants at the National Consultation on Strengthening Decentralisation, held at New Delhi on 12 December 2000 for lively debate on various aspects of decentralisation. This paper benefited substantially from their views, experiences and expert comments. UNDP is grateful to Dr. Rohini Nayyar and her team at the Planning Commission for their partnership and support to the dialogue on Decentralisation.

---

# CONTENTS

---

<b>EXECUTIVE SUMMARY</b>	<b>1</b>
--------------------------	----------

---

<b>PART I</b>	<b>CURRENT STATUS AND PROSPECTS FOR DECENTRALISATION</b>	<b>3</b>
<b>1</b>	<b>Purpose and Background</b>	<b>3</b>
<b>2</b>	<b>Historical Overview</b>	<b>4</b>
<b>3</b>	<b>Current Status and Key Features of Decentralisation in India</b>	<b>8</b>
<b>4</b>	<b>Constraints in Institutionalising Panchayats: Conformity and Operational Issues</b>	<b>8</b>
4.1	Legal Issues and Litigation Surrounding Panchayati Raj	8
4.2	Relationships between Panchayati Raj Institution Levels	12
4.3	Panchayats and Line Departments: Operational Issues	14
4.4	Reforms Required for More Effective Linkages	16
<b>5</b>	<b>Contribution of PRIs to Governance Structure</b>	<b>21</b>
<b>6</b>	<b>Decentralisation and Urban Local Bodies</b>	<b>24</b>
6.1	Features and Critique	24
6.2	Urban Local bodies and Poverty Issues	26
6.3	Trends in Urbanisation and Civic Participation	26
<b>7</b>	<b>Women's Representation in Local Government: Creating a Politics of Presence</b>	<b>32</b>
7.1	Backdrop of Legislation	33
7.2	Women and Elections to the New Panchayats	34
7.3	Women Representatives: Social and Economic Characteristics	35
7.4	Why Women Contest	37
7.5	Women's Awareness of Panchayati Raj	37

---

<b>PART II</b>	<b>REVITALISING PUBLIC SYSTEMS THROUGH PEOPLE'S ACTION</b>	<b>50</b>
<b>8</b>	<b>Panchayat and Community Finance</b>	<b>50</b>
8.1	Context	50
8.2	Panchayat Budgets	52
<b>9</b>	<b>Accountability of Local Bodies</b>	<b>61</b>
9.1	Accountability and Constitutional Status of Local Bodies	62
9.2	Transfer of Financial Powers and Desirable Structures of Accountability	63

9.3	Municipal Finance Reforms	67
9.4	Accountability, Accounts and Audit	69
<b>10</b>	<b>Women in Power (Security through Leadership): Where Do We Go From Here?</b>	<b>74</b>
10.1	Developmental Consequences of Women's Representation	74
10.2	Emancipatory Impact of Women's Representation	75
10.3	Policy Reform and Capacity-Building	77
10.4	The Long, Slow but Irreversible Route to Empowerment	78

---

### **PART III POSSIBLE DIRECTIONS FOR INTERNATIONAL SUPPORT** **79**

<b>11</b>	<b>Strengthening Decentralisation : UN Initiatives</b>	<b>79</b>
11.1	National Priorities	79
11.2	Towards Decentralisation: Results from a UN Decentralisation Mapping Exercise	79
11.3	The Decentralisation Imperative	80
11.4	Decentralisation of Development Responsibilities – The Challenges	82
11.5	Key Elements of a Decentralisation Strategy	84

---

#### **LIST OF BOXES**

Box 1	Mahatma Gandhi on Panchayati Raj	3
Box 2	Decentralisation: The National and Global Context	5
Box 3	Salient Features of the 73 <sup>rd</sup> Constitutional Amendment	7
Box 4	Panchayats Dispense Justice	13
Box 5	The 74 <sup>th</sup> Constitutional Amendment: The Urban Bill of Rights	24
Box 6	Who Will Make the Chapatis?	37
Box 7	Equity and Social Inclusion: Women's Voices	49
Box 8	Administrative and Financial Devolution: Strengthening Local Domains	62
Box 9	Public Hearings and Accountability on Demand: Jan Sunvai	73
Box 10	UN Assistance to Strengthening Local Government Institutions	81
Box 11	UN Assistance to Community Management of Basic Services	81
Box 12	UN Assistance to Empowerment of Community Groups in Local Political Processes	82
Box 13	Grassroots Concerns for Panchayati Raj	82
Box 14	Issues for User Groups: Linkages with Communities, Civil Society Organisations and Local Bodies	85
Box 15	Community Driven Management: Avenues for Decentralisation	86

## ABBREVIATIONS

<b>BDO</b>	Block Development Officer
<b>CA</b>	Constitutional Amendment
<b>CAG</b>	Comptroller & Auditor General
<b>CBO</b>	Community Based Organisation
<b>CEO</b>	Chief Executive Officer
<b>Cr. P.C.</b>	Criminal Procedure Code
<b>CWDS</b>	Centre for Women's Development Studies
<b>DDA</b>	District Development Authority
<b>DDC</b>	District Development Council
<b>DM</b>	District Magistrate
<b>DPC</b>	District Planning Committee
<b>DPEP</b>	District Primary Education Programme
<b>DRDA</b>	District Rural Development Agency
<b>DUDA</b>	District Urban Development Authority
<b>ICDS</b>	Integrated Child Development Scheme
<b>IDC</b>	Inter-District Council
<b>ILO</b>	International Labour Organisation
<b>IPC</b>	Indian Penal Code
<b>ISED</b>	Institute for Socio-Economic Development
<b>LAD</b>	Local Accounts Department
<b>MARG</b>	Multiple Action Research Group
<b>MKSS</b>	Mazdoor Kisan Shakti Sangathan
<b>MLA</b>	Member of Legislative Assembly
<b>MMR</b>	Monthly Monitoring Report
<b>MP</b>	Member of Parliament
<b>MPC</b>	Metropolitan Planning Committee
<b>MPLADS</b>	MPs' Local Area Development Scheme
<b>NCPRI</b>	National People's Campaign for the Right to Information
<b>NGO</b>	Non Governmental Organisation
<b>OBC</b>	Other Backward Class
<b>PRI</b>	Panchayati Raj Institution
<b>SC</b>	Scheduled Caste
<b>SEC</b>	State Election Commission
<b>SFC</b>	State Finance Corporation
<b>SHG</b>	Self-Help Group
<b>ST</b>	Scheduled Tribe
<b>UNCHS</b>	United Nations Centre for Human Settlements
<b>UNDP</b>	United Nations Development Programme
<b>UNDAF</b>	United Nations Development Assistance Framework
<b>UNDCP</b>	United Nations Drug Control Programme
<b>UNFPA</b>	United Nations Population Fund
<b>UNICEF</b>	United Nations Children's Fund
<b>UNIFEM</b>	United Nations Development Fund for Women
<b>ULB</b>	Urban Local Body
<b>WFP</b>	World Food Programme
<b>ZP</b>	Zila Panchayat / Zila Parishad

---

## List of Background Papers

Amitabh Mukhopadhyaya.	<b>“Accountability and Audit of Panchayats”</b>
Nirja Gopal Jayal.	<b>“Gender and Decentralisation”</b>
S.S. Meenakshisundaram.	<b>“Relationship of Panchayats with Other Structures of Governance”</b>
S.S. Meenakshisundaram.	<b>“Legal Issues Surrounding the Implementation of the Constitutional Seventy Third Amendment”</b>
Solomon Benjamin.	<b>“The 74<sup>th</sup> Constitutional Amendment: A Livelihood &amp; Developmental Perspective”</b>
Vinod Vyasulu.	<b>“Panchayat Finances”</b>

---



## Executive Summary

### The Context

Decentralisation and community driven management acquire special importance in the context of the ongoing process of globalisation and associated economic reforms. While the process of globalisation acts in ways in which the market acquires supremacy to the detriment of people who lose control over their livelihood patterns as well as other choices, the process of decentralisation could act as a countervailing force enabling people to acquire control over decisions that influence their lives in critical areas.

India's Ninth Five Year Plan as also the recent Mid-Term Review have noted that proper implementation of development programmes has been hampered by the fact that benefits from these have largely been appropriated by the local elite. Participation of women and members of SC/ST communities in Gram Sabhas (village councils) and Panchayat meetings is favoured to ensure representation of interests of the poor. The 73<sup>rd</sup> and 74<sup>th</sup> Amendments envisage the village panchayat/ ward council as a forum and action point where local solutions to local problems will remedy lacunae in bureaucratic, top-down schemes. Although national goals and aspirations are supportive of decentralisation, during its implementation we need to address concerns for inclusiveness, accountability and effectiveness. For realising the progressive intent of national policy, elected local government institutions must be helped to become *vehicles for social transformation*, articulating the felt needs of the community, especially those of women and marginalised groups. Livelihood security for the poor would ensure effective participation and better mobilisation of local resources.

This document argues that rapid human development and strong local democracy go hand in hand. Strengthening local democracy, in turn, requires support to people's participation in the management of local resources and local institutions. Enabling people's action through local governance institutions will help overcome social inequalities based on caste and gender. Another objective of the document is to address skepticism about the effectiveness of local institutions (Panchayati Raj) as a viable approach for poverty eradication and sustainable human development.

### Macro Environment

The document attempts to articulate the connection (hitherto insufficiently emphasised in the literature) between economic dependency of vulnerable groups on the local elite, on the one hand, and effectiveness of local governance institutions in delivering basic services to the poor, on the other. Recognising the existence of structural impediments to the effective functioning of local government institutions, this document draws attention to the fact that the success of decentralisation depends critically on the existence of a congenial macro policy framework that ensures the provision of livelihood security for the poor. The ingredients of a "panchayat-friendly" macroeconomic and policy regime need to be identified. The paper attempts this exercise, based upon an analysis of the issues pertaining to removal of administrative, legal and procedural anomalies, structural design of the three-tier system, panchayat finance and budgets, gender, urban poverty and livelihoods as also imperatives for future action, in rural as well as urban areas.

*Rapid human development and strong local democracy go hand in hand*

## Administrative Procedures

Several constraints in the institutionalisation of Panchayati Raj stem from the fact that the rationalisation of laws, administrative procedures and systems has not kept pace with the constitutional sanction to local governance bodies. There is need to tailor government rules, administrative structures and procedures so that the local bodies have the necessary wherewithal to carry out their mandated duties. States such as Kerala and Madhya Pradesh have placed line departments in several sectors under the control of local bodies, a factor that has contributed to the resilience of their decentralisation initiatives.

*In order to transform present realities, it is imperative to strengthen decentralisation from below, so that voices of the poor could carry weight in village assemblies and ward council meetings*

Strengthening the Gram Sabha is another important step in this direction. Taking government closer to the people, to ensure that the Gram Sabha serves as the empowered and proximate forum for local democracy, especially so in regions characterized by a dispersed pattern of settlement is an essential step. The Panchayat Extension to Scheduled Areas Act, 1996, has taken steps in this direction, by making the Gram Sabha the cornerstone of people's empowerment. The momentum of this initiative needs to be built upon to ensure that the village assembly/ ward council becomes the centre-piece of local democracy.

## Fiscal Devolution

The document addresses issues pertaining to fiscal devolution and argues that systems of due diligence must be put in place such that panchayat / municipal finance have sound legal and auditing underpinnings. The paper marshals evidence that, with community-based mechanisms of transparency and accountability, *the hard budget constraint is strengthened, not undermined by fiscal devolution.*

In the absence of transfer of financial powers (including revenue raising) and untied funds, Panchayati Raj Institutions and Urban Local Bodies will not be able to carry out their functions and have credibility at the local level. The

recommendations of the Eleventh Finance Commission, which analysed the issue of restructuring Centre-State financial relations also in the light of the need to strengthen the finances of local bodies become relevant here. In the absence of such an approach, the transfer of financial powers to the third tier of governance would ultimately become a meaningless exercise in transferring non-existent resources. The issue of State finance reform cannot therefore be seen in isolation from that of greater and more effective fiscal devolution through the national and State finance commissions.

## Decentralisation from Below

The argument for greater devolution is based on the experience of States such as Kerala, Madhya Pradesh, Karnataka and Uttar Pradesh, which demonstrate that the transfer of funds, functions and functionaries is the key to more successful decentralisation. *Local bodies need to be seen as institutions of self-governance not as 'delivery mechanisms'.*

For this to happen, decentralisation from above must converge with decentralisation from below. This can be achieved by forging links between local bodies and informal associations and user groups.

In brief, in order to transform present realities, it is imperative to strengthen decentralisation from below, so that voices of the poor could carry weight in village assemblies and ward council meetings. Apart from social mobilisation, this can be accomplished by strengthening community networks and institutions. These would build the capabilities of the poor, provide security of livelihood and a safeguard against destitution, hunger, disease and alienation. Initiatives that empower the poor, especially women to manage local resources and local institutions, are steps in this direction. The success of the world's largest experiment in deepening democracy ultimately depends upon the success of these initiatives.



## Current Status and Prospects for Decentralisation

### 1. Purpose and Background

In an era of globalisation, decentralisation is the principal countervailing trend which can ensure that the growth process is pro-poor, pro-women, pro-nature and pro-jobs. As market integration and technological innovation renders the national frontiers more permeable, it is crucial to put in place and strengthen systems of negotiation, regulation and decentralised governance. These can ensure that the voices and concerns of the poorest of the poor, in keeping with Mahatma Gandhi's message, are centre-stage in policy dialogue at the global, regional and national levels. (Box 1)

In the Indian context, economic reforms and Panchayati Raj have been the two major policy imperatives since the early 1990s. For both, it is not so much the *necessity* of the policy directive, but its *content and underpinnings* that are being debated. Direct local democracy has been mandated constitutionally through the 73<sup>rd</sup> and 74<sup>th</sup> Amendments. The principle of 'Cooperative Federalism' (decentralised implementation based upon harmonious understanding between the three tiers of governance – Centre, State and local - is the basic premise of India's Ninth Five Year Plan. However, the actual progress of decentralisation has been uneven across States. In the absence of adequate financial clout, functioning of the Panchayati Raj Institutions (PRIs) and Urban Local Bodies (ULBs) have been severely constrained. In the absence of measures to strengthen public systems at the local level, panchayats run the same risk as the cooperatives of being co-opted into the

existing malaise of bureaucracy and politics which hinders effective implementation of programmes documented in the Mid Term Review of the Ninth Plan.

It has been argued (e.g., Lieten 1996a) that the current functioning of panchayats fares poorly on the criteria of efficacy in service delivery, inclusiveness and accountability. Although national goals and aspirations are supportive of decentralisation, the translation of aspirations into reality requires strengthening the institutions of Panchayati Raj so that there is greater linkage with informal people's groups, user groups and also greater devolution of 'funds, functions and functionaries'.

The Eleventh Finance Commission's recommendations on strengthening panchayat and municipal finances by including local bodies under the ambit of tax-base widening initiatives through better exploitation of land based

*It is crucial to put in place and strengthen systems of negotiation, regulation and decentralised governance*

#### BOX 1

##### Mahatma Gandhi on Panchayati Raj

Every village has to become a self-sufficient republic. This does not require brave resolutions. It requires brave, corporate, intelligent work.... I have not pictured a poverty-stricken India containing ignorant millions. I have pictured to myself an India continually progressing along the lines best suited to her genius. I do not, however, picture it as a third-class or even a first-class copy of the dying civilisation of the West. If my dream is fulfilled, and every one of the seven lakhs of villages becomes a well-living republic in which there are no illiter-

ates, in which no one is idle for want of work, in which everyone is usefully occupied and has nourishing food, well-ventilated dwellings, and sufficient Khadi for covering the body, and in which all the villagers know and observe the laws of hygiene and sanitation. There is nothing inherently impossible in the picture drawn here. To model such a village may be the work of a lifetime. Any lover of true democracy and village life can take up a village, treat it as his world and sole work, and he will find good results.

Source: R. Prabhu & UR Rao (eds), *Village Republics: the Mind of Mahatma Gandhi*, pp. 246-247, Ahmedabad, Navjivan Press

*The institutions of local governance tend to reflect the socioeconomic and political milieu in which they are located*

taxes, better administration of property taxes and other taxes, are a step in this direction as they catalyse greater fiscal devolution. This transfer needs to be governed by the vision of empowering people and reflected in complementary measures, which build poor people's partnerships in the decisions taken by panchayats and municipal bodies, so that fiscal clout contributes to people's power.

Like any strategy for fundamental democratic change (and Panchayati Raj in India is one of the largest such "transformational experiments"), the institutions of local governance tend to reflect the socioeconomic and political milieu in which they are located. In India, the poor face multiple constraints emerging from economic, political and social factors. The social constraints often derive strength from religious beliefs and prevalent cultural norms. In the case of women, these are reinforced by the pervasive discrimination based on gender. While each of these constraints is powerful enough to impede upward mobility for the poor, what is daunting is that the constraints act in a mutually reinforcing manner rendering the task of overcoming them virtually impossible for any single individual. Government policy aimed at amelioration of the living conditions of the poor would have greater chances of success if it were to be multi-pronged in nature and coordinated in a manner that synergises the effects of interventions in diverse fields.

It is in this context that the role of the Panchayati Raj Institutions (PRIs) acquires importance, for they provide an opportunity to undertake the implementation of coordinated action at the grass root level for the benefit of the disadvantaged sections of society. However, for such action to actually materialise, it is necessary that mechanisms to counter local power structures are built into the process of Decentralisation. In the absence of a rights-based approach that fosters mobilising the

poor to have a voice in governance, PRIs will also be constrained by the pathologies that go with entrenched power structures. Clearly, measures are needed whereby the poor can participate more effectively through PRIs and local informal groups and people's movements. Measures are required for addressing the difficulties of institutionalising the participation of the poor in PRI functioning. This involves removing the legislative and procedural problems that constrain the *Gram Sabha*, greater devolution of funds, functions and functionaries, putting in place mechanisms of audit and accountability and strengthening the participation of women.

For realising the progressive intent of national goals, elected local government institutions must be helped to become vehicles for social transformation, articulating felt needs of the community, especially those of women and marginalised groups. Livelihood security for the poor would ensure effective participation and better mobilisation of local resources. For this to happen, it is imperative to strengthen Decentralisation from below, so that the voice of the poor could carry weight in village assemblies. Apart from social mobilisation, this can be accomplished by strengthening community networks and institutions. These would build the capabilities of the poor, providing security of livelihood and a safeguard against destitution, hunger, disease and alienation. Initiatives that empower the poor, especially women, to manage both village resources and village institutions, are steps in this direction. The success of local democracy depends upon the success of these initiatives. The linkage between political, financial and economic decentralisation is the key to a successful programme of pro-poor reform (see Box 2).

## **2. Historical Overview**

In order to understand the crucial dynamics of Panchayati Raj, it is instructive to assay the

evolution of institutions of Indian village “democracy”, a subject of heated debate in the Constituent Assembly.

In pre-British India, both caste and village panchayats existed. Caste panchayats were concerned with issues related to *jajmani*, marriage, and rituals. Village panchayats consisted of elders of prominent households in a village (whether family of original clearers of the land for cultivation or family of superior caste who was granted the village by a political patron). They were concerned primarily with adjudicating civil disputes of residents related to rights in land and administering criminal justice. They also performed regulatory functions related to village commons (grazing lands, woods and water bodies). Responsibility for payment of tithes and taxes was, strictly speaking, not their concern; the revenue systems introduced since the times of Sher Shah Suri took care of these. They did, nevertheless, have some say by way of counseling the village residents on matters related to allegiance owed to different political masters like zamindars/subedars/riyasats and so on.

The role of panchayats as institutions administering justice was eliminated by the British Raj. Legislation in 1860 such as the Indian Penal Code (IPC), Criminal Procedure Code (Cr.P.C.), Contract Act etc., along with Baden-Powell’s schema for land revenue settlements supplanted the customary/traditional law. Collectorates and courts usurped powers of caste/village panchayats to establish the rule of law. The impact of the IPC and Cr.P.C. on transplanting European notions of equality to Indian soil remains under-researched; we venture to suggest that it was as significant as land reforms or social movements. For now it is sufficient to flag the point that the flexibility of customary law contrasted with the rigid structures of the rule of law.

When village panchayats were re-legislated to life in India as ‘local bodies’, their character

had been transformed. These legislations were not prompted by any regard for customary law or traditional wisdom that might express itself as the general will of the people. They were considered necessary as agencies for development of the rational-legal institutions of representative government. Arguing for budgetary freedom for development functions to be performed by local bodies, Lord Ripon’s Resolution of 1880 stressed that the educative principle of training people to participate in representative institutions of government should not be subordinated to demands for efficiency in development activities. The Bengal Municipal Act of 1884 and Bengal Local Self-Government Act, 1885 were informed by this philosophy.

In 1919, to ease the burden on imperial finances and bring to bear local supervision and vigilance on development activities, local bodies were re-legislated to life in other

*The role of panchayats as institutions administering justice was eliminated by the British Raj*

#### BOX 2

#### **Decentralisation : The National and Global Context**

International experience bears out the close link between reform and Decentralisation. Apart from the theoretical logic of a reduced role of government creating opportunities both for private enterprise and for community action, in many countries actual reform programme has been built upon increasing institutional space for Decentralisation. Reform programmes in developing countries/transition economies as diverse in range as Poland, Chile, Argentina and South Africa and China, the autonomy to local units in decisions on incentives for investment and capital market access, has given a strong foundation to reforms. In the case of China, the Town & Village Enterprises (TVEs) were given a wide range of powers in matters relating to resource mobilisation, user fees, and recruitment of experts, apart from implementation responsibilities that they already had. Clearly, economic decentralisation has been the key to

success of reform programmes in such contexts.

The issue of sequencing and forms of Decentralisation, therefore, assumes much significance. In the above-mentioned countries, only South Africa has undertaken the most comprehensive devolution of powers to the third tier. In China, the reforms were not related to political freedom. Indeed, that is proving to be a hindrance as China integrates more into the global economy through institutions such as the World Trade Organisation (WTO).

Political Decentralisation provides a more durable ‘rational-legal’ framework that makes Decentralisation an integral part of the political and civic discourse. India is the world leader in creating space for political decentralisation. Now the concomitant arenas of fiscal devolution and economic decentralisation require greater attention by policy researchers.

*In the 1950s, Panchayati Raj was a Central Government strategy for rural development*

presidencies. The *taluka/tehsil* served as the basic unit for local boards, assigned subjects such as sanitation, education and health, with powers to levy fees and taxes. Provincial governments in 1935 wrested the power to enact legislation on local self-government. Acts were voted by provincial governments to vest powers of administration, sometimes including criminal justice, with the panchayats.

However, it is noteworthy that several of the legislations of provincial governments on Panchayati Raj carried over to the post-independence scenario were legislated between 1947 and 1950 (i.e. prior to the adoption of the Constitution). All of them provided for panchayats by and large co-terminus with administrative units like the Patwari Circle, Tehsil/ Taluka and District. The provincial governments jealously guarded their interests by providing for powers of the Collector to supersede the decisions of apex level district bodies.

While distributing powers between the Union and the States, the Constitution of India at Article 40 (Directive Principles of State Policy) vested local bodies and Panchayati Raj as a subject with the States but did not further elaborate on the relations between the States and this third tier of Government. Panchayati Raj was given another lease of life in the context of community development projects launched in 1952. The Balwantrai Mehta Committee Report in 1957 underlined the role of elected Panchayat Samitis at the community development block/tehsil level as the basic unit of democratic decentralisation. Only an advisory role was contemplated for the Zila Parishads constituted of panchayat samiti heads chaired by the Collector. However, the legislation that followed the Committee's Report basically continued the earlier enactments of Provincial Governments to re-iterate the three-tier structure and provide for over-riding powers of the State Government acting through the Collector.

Panchayati Raj was a strategy for rural development in a context of centralism that was then seen as a historical necessity. The moral weight of the national movement required that the aspirations of the peasantry to better conditions of life be fulfilled. The Government that came to power initiated land reforms and institutional change to do away with nefarious traditions of discrimination and domination based on religion and caste. This required the will of strong Central and State Governments to be pitted against local vested interests, whether landlords or 'superior castes'. Moreover, land revenues had to be reduced and since income levels were low and highly skewed between individuals and regions, reliance on the spread of indirect rather than the narrow incidence of direct taxes was necessary which naturally resulted in a centralised system of finance. These constraints, along with others related to the legacy of the Raj, partition of the country and the enthusiasm for a planned economy, shaped centralism. However, this centralism was not conducive to the growth in the status of local bodies.

As the funding for Community Development projects dried up by the mid-1960s, panchayats stagnated. They languished for decades without funds, superseded by decisions of district collectors, without elections being held to reconstitute them and remained insufficient to provide representation for women, Scheduled Castes and Scheduled Tribes. In a few States efforts were made to revive them after the Ashok Mehta Committee Report was submitted in 1978. This Committee recommended grouping of a number of villages to constitute a mandal panchayat covering a population of 15,000 to 20,000. Andhra Pradesh and Karnataka tried out such mandal panchayats. It is significant that in a dissenting note, the late EMS Namboodiripad, a member of this Committee, pointed out the bureaucratic bias in constituting panchayats on the basis of administrative units instead of corporate bodies

with face to face relations as obtained in a single village. The important place assigned to gram sabhas in the schema of participation in our development Programmes in recent years, especially in the Panchayati Raj Extension to Scheduled Areas Act 1996, vindicates the significance of this dissenting view.

In the absence of functioning district and sub-district level development institutions, in 1979-80, the District Rural Development Agencies (DRDAs) were jointly registered by the Union and State Governments in each district as societies under the Societies Registration Act, 1860. They served as conduits of finance to by-pass budgetary procedures of the State Governments and implement poverty alleviation programmes sponsored by the Central Government. Similar district level societies mushroomed for implementing programmes for industries, fisheries, adult education, primary education of children, equality for women, women's employment and so on.

The 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendments in 1992-93 have ushered in the present phase where panchayats are described as institutions of local self-government, and are expected to prepare plans for economic development and social justice. There are now approximately 250,000 Gram Panchayats, 6500 Panchayat Samitis and 500 Zila Parishads duly elected and governed by State legislation. To function effectively, these require rationalisation of the district and sub-district administrative apparatus consistent with the State level Conformity Acts.

### **3. Current Status and Key Features of Decentralisation in India**

The Amendments inserted Parts IX relating to panchayats and IX A relating to municipalities in the Constitution. Articles 243-243O and 243P - 243ZG of the Constitution are in the nature of basic provisions supplemented by laws of the respective States, which define

the details as to the powers and functions of the various organs. All States have enacted new Acts or incorporated changes in their existing Acts in conformity with the 73<sup>rd</sup> and 74<sup>th</sup> Amendments. The salient features of the 73<sup>rd</sup> Constitutional Amendment are given in Box 3.

## **4. Constraints in Institutionalising Panchayats: Conformity and Operational Issues**

### **4.1 Legal Issues and Litigation Surrounding Panchayati Raj**

Although expectations have been raised by providing Constitutional status to the PRIs, in actual practice, at the operational level, they appear to have been saddled with a variety of problems. There are many impediments affecting the functioning of the PRIs in several States with regard to structural pattern, composition of Panchayats, organic linkages between PRIs, electoral process, concept of rotation in the case of reserved seats, devolution of powers and functions, bureaucratic control over local bodies etc. It is useful to analyse some of the legal issues surrounding the implementation of the Act and examine the need to have a further amendment to revitalise PRIs so as to make them vibrant.

#### ***Distance from the Gram Sabha***

The Gram Sabha, which was a pivot of Panchayati Raj in the new dispensation, has been sidelined in many cases. It is through the *Gram Sabha* that the elected representative is made accountable to the electorate. This presupposes two things. Firstly, if the participation in gram sabha has to be meaningful the gathering cannot be large. Secondly, the gram sabha should meet periodically and the subjects placed before it are such that they attract public attention. Only then, the electorate will have any interest to attend the gram sabha, foregoing their day's income. Unfortunately, the Act does not appear to provide for both

*It is through the Gram Sabha that the elected representative is made accountable to the electorate*

these requirements explicitly. While in some States, the gram sabha meetings take place in every village whenever the village panchayat consists of more than one village, in some other States only one composite gram sabha is convened for all the villages which constitute the gram panchayat. Since this composite gram sabha is usually held in the headquar-

ters village of the panchayat, citizens from the other villages either do not attend the gram sabha or are reluctant to articulate their needs. Unless each village has a gram sabha of its own, the purpose of accountability may not be served, especially when the village panchayat serves a population of a few thousand.

### BOX 3

#### Salient Features of the 73<sup>rd</sup> Constitutional Amendment

**Continuity:** By providing for duration of 5 years for an elected panchayat and re-election of panchayats before expiry or within six months of their dissolution as well as non-interference by Courts in electoral matters, continuity of panchayats has been ensured by the 73<sup>rd</sup> Amendment.

**Gram Sabhas:** All States have provided that a Sarpanch/Mukhia/Adhyaksha/Pradhan of the gram panchayat will convene a Gram Sabha, consisting of persons registered in the electoral rolls relating to a village comprised within the area of panchayat at the village level at least twice a year.

The following matters shall be placed before it by the gram panchayat :

- Annual Statement of accounts and audit report
- Report on the administration of the previous year
- Proposals for fresh taxation or for enhancement of existing taxes
- Selection of schemes, beneficiaries and locations

**Three-tier System:** A uniform structure of three tiers – at village, intermediate and district levels has been prescribed but the constitution and composition of panchayats has been left to preferences of States subject to all seats being filled by elected persons from the respective territorial constituencies of the panchayats.

**Reservation of Seats:** Seats have been reserved for SC/ST in every panchayat on the basis of proportional representation and such seats may be allotted by *rotation* to different constituencies in a panchayat. Not

less than one-third of the seats so reserved are further reserved for women belonging to SC/ST. Besides this, not less than one-third of the total number of seats in a panchayat are reserved for women and such seats may be allotted by rotation to different constituencies in a panchayat. Similar reservations for backward classes has been left to the discretion of States.

**Powers and Authority:** It is noteworthy that the 73<sup>rd</sup> Amendment provides for States to endow the panchayats with powers and authority 'to enable them to function as institutions of self government'. However, the functions of panchayats stated in the same Art 243G are in the nature of entrusted development functions: "(a) preparation of plans for economic development and social justice and (b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to matters listed in the Eleventh Schedule."

Functions that by tradition are uniquely assigned to panchayats consist of the provision and maintenance of what may be termed as 'neighborhood' public goods — of street lighting, sanitation, village commons, and water supply – as opposed to 'national' public goods like justice and national defense. The national level is also uniquely assigned the functions of income redistribution and macro-economic stabilisation, which involve cross-regional issues. There are *intermediate* functions like education, which cannot be classified in either local or national slots.

**Election Commission:** Governors of States are empowered by the 73<sup>rd</sup> Amendment to appoint State Election Commissioners and

stipulate by rules the tenure and conditions of their service.

**Finance Commission:** Governors of States are also empowered to constitute State Finance Commissions to review the financial position of the panchayats and to make recommendations to the Governor as to

- The principles which should govern
  - the distribution between the State and the panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this part and the allocation between the panchayats at all levels of their respective shares of such proceeds
  - the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the panchayats
  - the grants in aid to the panchayats from the Consolidated Fund of the State
- the measures needed to improve the financial position of the panchayats
- any other matter referred by the Governor in the interests of sound finance of the panchayats.

**Audit of Accounts:** Audit of panchayats are to be provided for by the State Legislatures. We may note that only the Karnataka Panchayati Raj Act, 1993 has provided for entrusting audit of Taluk Panchayat Funds and Zila Panchayat Funds to the Comptroller & Auditor General (CAG) while the Controller of State Accounts may authorise any officer to audit Gram Panchayat accounts.

### ***Rigid Structure***

The structure of the PRIs envisaged under the Act is rather rigid. While the district has been defined as a normal district in a State, the jurisdiction of village and intermediate levels has not been specifically defined in the Act. While many States have more or less accepted the constitutional dictum of a three-tier structure, some would like to have the freedom to choose the pattern of decentralisation which, in their opinion, is most suited to them.

The institutional design for decentralisation should take into account not only the developmental thrusts built upon the capabilities at the local levels, but also the need to ensure local participation in decision-making. The problem of striking a balance between technical requirements and possibilities for meaningful participation by the people in development management occurs at levels below the district. The question of adequate area for a unit of administration is quite complicated in any State, owing to unevenness in terms of economic resources, communication facilities, population density, level of social integration, civic commitments, etc. A uniform set of criteria cannot, therefore, apply throughout the country. It would be appropriate to leave the exact pattern of local government below the district to the States/Union Territories. The Central Government can at best lay down general criteria for the guidance of the States, making it compulsory to have one tier closer to the people to implement the development programmes and another at a higher level to supervise and monitor implementation.

### ***Election to Panchayats***

The constitution of Panchayats as mandated under the Act has also posed problems in some States. Under Article 243C (2), all the seats in a panchayat shall be filled by persons chosen by direct election from territorial constituencies in the panchayat area. Prior to the Act, some States had intermediate level

panchayats consisting only of the elected representatives representing that area in the village as well as district panchayats. While the Chairman of this panchayat was directly elected in some States, in some other States the chairperson of this intermediate panchayat was either elected from among the members or nominated by the State government.

There is debate regarding whether direct elections should be held to constitute the panchayats at all the three levels or whether the intermediate panchayat at least can be constituted by nomination of the concerned elected members belonging to the other two tiers. A related issue, raised in a recent Constitutional Amendment proposal is whether we could restrict direct elections to the village level only and have the village and intermediate panchayats elect members who will represent them in the next higher level panchayats. While this may provide an organic linkage between the different tiers of the system, it may not perhaps satisfy the democratic norms for decentralisation, by diluting the element of direct democracy at the district level.

### ***Reservations***

- There is a mandatory provision for reservation of seats for the Scheduled Castes (SCs), the Scheduled Tribes (STs) and one-third reservation for women (including women from the SCs and the STs). It also has an enabling provision for reservation for Other Backward Classes (OBCs). (There is no reservation, as of now, for OBCs in the State Assemblies and the Parliament even though reservation is provided in these fora for the SCs and STs.) Reservation for OBCs in the panchayats has led to controversies and litigation in several States. Even the holding of elections came to be stalled on account of this in Bihar and Pondicherry, as the identification of OBCs in these places has itself run into difficulties.

*The institutional design for decentralisation should take into account not only the developmental thrusts built upon the capabilities at the local levels, but also the need to ensure local participation in decision-making*

*The Constitution expects the State Legislature, by law, to endow the panchayat with such powers and authority as may be necessary to enable them to function as institutions of self-government*

- There has also been a debate on the desirability of prescribing reservations to the offices of chairpersons in the Panchayats. These reservations have, in fact, resulted in administrative problems in some States. There have been instances of the ruling party not having even a single elected representative from the category of SC/ST or women, when the chairperson's post was reserved in their favour, and under Art.243C(5), the chairperson has to be elected from among the elected members only. Besides these practical problems, there can also be a question as to why the post of the chairperson of a Panchayat should only be reserved for a particular community/sex, when a similar reservation has not been made for any other public office anywhere in the country. On the other hand, it must also be borne in mind that, without such a reservation, the country could produce only a handful of Chief Ministers in the States who belong to the category of SC/ST or women.
- The concept of rotation prescribed under the Act in respect of the reserved seats has also posed certain practical difficulties. Article 243D clearly directs that the reserved seats, both for SCs and STs as well as women shall be allotted by rotation to different constituencies in a panchayat. This has been interpreted to mean that such rotation should take place at the end of every five years. If this interpretation is given effect to, no SC, ST or women member will ever get the opportunity of occupying the same seat for a second term, as it is highly unlikely that these persons would be allowed to contest from the same constituency, when the reservation is removed.

If we accept the theory that most of the SC/ST and women members do not have any prior experience and will find it difficult to occupy positions of power in the initial period, it would be very difficult to support the idea that

they should not continue in such positions, beyond one term. Since this provision of rotation applies to the chairpersons also, it is possible that the bureaucracy may take an upper hand in some places, as they are sure that the chairperson has no chance of getting re-elected. While the concept of rotation is commendable, it is also desirable to specifically prescribe the period for such rotation. This period should be long enough for the incumbent to get acclimatised to such positions and deliver the goods before completing that period and short enough to give all sections of the community a chance to get into positions of power at the local level.

### ***Dissolution***

Article 243E specifies the duration of tenure of panchayats and makes it mandatory to constitute the next panchayat before the expiry of the duration of the previous panchayat or before the expiry of a period of six months from the date of dissolution, if any. While the Constitution thus acknowledges the possibility of a dissolution, it does not deal with the running of the panchayat during the interregnum, that is between the dissolution and the constitution of the new panchayat. It may perhaps be necessary to provide for the continuance of the existing office-bearers of the panchayat to manage the day-to-day affairs of the panchayat during this interregnum, if necessary under the supervision of the Panchayat at the next higher level.

### ***Devolution***

- The Constitution expects the State Legislature, by law, to endow the panchayat with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon the panchayats at the appropriate level. However, the devolution of powers and functional strengthening of the different tiers

of the Panchayati Raj system have not taken place in most States. Detailed executive instructions devolving powers and responsibilities on the different tiers of the PRIs have not been issued and a feeling is gaining ground that the initial momentum is somehow lost.

- In addition, a review of the provisions in the States' Acts reveals that bureaucratic control over the panchayats continues to be very strong. Even where direct bureaucratic control is not visible, the panchayats have been placed in such a position that the chairpersons have to make repeated trips to government offices located far away, for getting approvals and sanctions. This dismal picture obtaining in most of the States leads us to the question whether the Act should have gone to the extent of drawing up a fourth list in the Seventh Schedule of the Constitution for district subjects, instead of simply outlining 29 matters in the Eleventh Schedule.
- Functions go where there is money, regardless of any list. Consequently, it is perhaps more important to install a new financial regime than to devise new lists. That takes us to the constitution of the Finance Commission as prescribed in the Act. Article 280(bb) and 280(cc) require the Central Finance Commission to take into account the recommendations of the State Finance Commissions (SFCs).
- The SFCs who have already submitted the reports have given their recommendations for the period 1996-2001 while the Eleventh Finance Commission which has been set up recently, will be concerned for the five years beginning 2001. Merely projecting the requirements based on the available SFC reports by the Central Finance Commission will be a very static way of dealing with the issue. Some method will, therefore, have to be found to bring a

meaningful interface between the Eleventh Finance Commission and the SFCs. One solution could be to expedite the setting up of the second SFCs. This will require an amendment to Article 243I and 243Y, as the second SFCs cannot be set up before the expiry of five years from the date when these were first set up. Unless the financial devolution from Centre to the States and the PRIs is put on a realistic and sound footing, no functional devolution can become meaningful.

Summing up the above discussion, we may say that since the panchayats have now come to stay as a constitutionally recognised tier of governance, it is time to strengthen them so that they can discharge the duties cast on them in the best manner possible. At the same time it must also be borne in mind that even without a further amendment to the Constitution, it is still possible to implement the spirit of decentralisation in this country. In areas which have been left to the discretion of the State Governments under the Act, it is possible for the State Governments to bring in improvements either through administrative orders of the Government or by amending the State statutes appropriately. Only in cases where the Act comes in the way of meeting a particular field situation specific to a State, there is a need for seeking a Constitutional Amendment. Such cases do exist; but are not very many.

*A paradox is that the Central Legislature was necessitated to bring about decentralisation in the country. While agreeing with the view that a Constitutional Amendment may not be the best form of bringing in decentralisation in any country, we must also remember that Article 40 which was in our Constitution for several years could not help in establishing meaningful local bodies in most States of our country. We will, therefore, have to live with the idea of amending the Constitution not only to bring in but also to enhance decentralised governance. Anomalies that have crept in have to*

*Since the panchayats have now come to stay as a constitutionally recognised tier of governance, it is time to strengthen them so that they can discharge the duties cast on them in the best manner possible*

be rectified and the challenge of the time has to be met. These will again need a public debate to crystallise ideas, and political will to translate these ideas into a workable legislation.

#### 4.2 Relationships between PRI Levels

We now turn our attention to the relationship among the different tiers of the Panchayati Raj structure. A major area of friction between the tiers has been the allocation of functions among them, as the Constitution has left this entirely to the discretion of the States.

While devising the pattern of devolution not only between the State Government and the PRIs but also between the PRIs themselves, three aspects have to be borne in mind.

- *Firstly*, administrative units and structures are not uniform in every State. Each State has its own unique historical background for the evolution of its present administrative and institutional patterns. It is therefore neither feasible nor desirable to lay down a uniform pattern for all States. The devolution of functions among the tiers will have to be left to the local genius, keeping in view the existing culture of the State and the capabilities that can be created at different levels.
- *Secondly*, the Eleventh schedule of the Constitution, as already mentioned, covers all the three levels of panchayats and there is an apparent overlap of functions. Therefore, demarcation of operational responsibility between one level of panchayats and another has to be made specifically with reference to each programme or activity. The number of plan schemes, as of now, literally runs into hundreds. Each of them has to be examined to see what should be retained by the State Government and what should be entrusted to the district/intermediate/gram panchayat. Such demarcation cannot be a one time exercise and may call for adjustments from time to time in the

light of experience and changes in the nature of governmental activities. This can be best done under rules and notifications issued by the State Governments for which necessary provision has to be made in the statute.

- *Thirdly*, while the principle of subsidiarity will have to govern the allocation of functions among the different tiers of the PRIs, we must also take into account certain basic principles of decentralisation, namely: (a) every activity requires a minimum size for functional efficiency and economy; (b) the area of benefit should not extend beyond the jurisdiction of the panchayat concerned; and (c) the administrative resources available at that particular level is capable of handling the activity in a competent manner.

There is a need to establish functional linkages between the tiers, at least for three different reasons.

- *Firstly*, there is a commonality of functions among all the three tiers. While in any given area, the nature of activity entrusted to the different levels could be different, such activities have to be meaningfully integrated with one another.
- *Secondly*, the administrative support to the activities of the panchayats at different levels is provided by different rungs of the same official hierarchy which in any case will function in accordance with the official hierarchy already established.
- *Thirdly*, there has to be some uniformity of standards in the provisions of basic and essential services within the district/intermediate panchayats. The panchayats at the higher level have therefore to act as coordinating bodies for the panchayats at the levels below. In some areas, as mentioned earlier, the latter can be the implementing agency for the programmes of the former.

*The panchayats at the higher level have therefore to act as coordinating bodies for the panchayats at the levels below*

The relationship between different tiers cannot be described in hierarchical terms. Dialogue and consultation should be the more appropriate way of interaction. For this to happen, it is necessary to assign responsibilities for oversight and accountability between the three tiers. Although the exact modalities of functioning of each tier would differ across States, this implies that residuary powers should be vested in the district tier and the panchayat body at a higher level should have some power to monitor the activities of the lower tier, and thus also serve as a forum of redressal of grievances and settlement of inter-panchayat disputes. (See Box 4)

If the local bodies ought to be distinct political entities, should each one of them be independently elected from a distinct constituency or should there be a link in membership? Obviously, the lowest tier in any system has to be directly elected. Whether the higher level bodies should also have directly elected memberships or whether they could be constituted indirectly through the elected members of the lower level bodies is a point for debate, as raised in the Eighty-seventh Amendment Bill. The issue of its implications for democratic countervailing forces at the district level also needs to be examined.

### **Costs**

The costs of parallel forms of local government are equally high and have produced artificial resource constraints. Even though urban population's need for water, land, energy and nutrients is increasing, it has not been able to develop these resources for more equitable sharing simply because these resources are usually located outside their jurisdiction. Nor have the rural areas been able to develop them because of severe financial constraints. The urban local governments have been reluctant to expand services like water supply, electricity, roads, transport and sewerage etc., to nearby villages because the revenue income from the villages is too small to pay for even a

fraction of such services. On the other hand, the land scarcity in urban areas has given rise to problems of proliferation of slum population in unplanned settlements with severe deficiencies in basic civic amenities, forcing the inhabitants to live in dangerously polluted environments and dilapidated structures. The case for ending dualism in local government is thus strong.

### **Single Local Government**

A single local government at the district level can look after the needs of its urban and rural components with a set of safeguards built into it so as to ensure just development of the entire area. Such a district government can also plan for the entire district obviating the need to have a separate district planning committee to coordinate action by various implementing agencies at the district level including the district panchayats and the municipalities. Over a period of time, this can lead to true federalism with the district tier becoming as effective as the State government in its sphere of activities. Madhya Pradesh has initiated the experiment with district government since 1999, with the innovation of the district budget, which is reflected as a line item in the State budget. Such experiments in de-concentration

*A single local government at the district level can look after the needs of its urban and rural components with a set of safeguards built into it so as to ensure just development of the entire area*

#### **BOX 4**

#### **Panchayats Dispense Justice**

Another related issue is the revival of *nyaya* panchayats to secure speedy and inexpensive justice in civil and criminal matters of a relatively minor nature right at the village level. It is interesting to note that these *nyaya* panchayats were in existence even before the British rule. The purpose then was to shorten the span between crime and punishment, and injury and redress as well as the hope that truth would surface locally without elaborate evidentiary procedures. The institution of *nyaya* panchayats will be a valuable aid to the development of social habits of self-government and the rule of law. If they function

effectively, they could enable the disadvantaged to seek justice in a relatively inexpensive manner and constitute an important mechanism for overcoming the various structural constraints facing them. Electing *nyaya* panchayats in a caste and community ridden society may pose problems in the first instance. In such an event, *nyaya* panchayats could be entrusted with the functions of mediation and conciliation to start with. Over a period of time and with the experience gained, a workable system could be evolved combining the local wisdom and the required local talent.

of administrative power can help infuse greater interest in hitherto neglected mechanisms such as the District Planning Committees. While, there may be apprehensions of capture of these by local bureaucracy and politicians, over a period of time, these will become platforms for accountability at the local level.

The structural relationships between the various tiers of governance will, therefore, depend upon the attitude of the people manning them and their own commitment to the process of decentralisation. All of them should realise that the success of the PRIs will depend on how effectively they are able to perform. Effective governance is a key ingredient for good delivery and all relationships should therefore have to be designed on that basis.

#### **4.3 Panchayats and Line Departments: Operational Issues**

We examine the following issues in the context of the Constitution 73<sup>rd</sup> Amendment, with regard to the relationship between PRIs/ULBs and government departments, to identify steps that need to be taken to ensure that not only the PRIs but also the other actors play their role in tandem for the benefit of the rural poor:

- Relationships between the PRIs and the National and State Governments and their parastatals.
- The role that should be played by the PRIs in the field of development so that their place in the federal structure of our polity gets duly integrated with the other existing structures of governance.

The silence of the 73<sup>rd</sup> Amendment Act on the manner in which the three tiers should be linked has resulted in a variety of practices and some confusion in this regard. This can and frequently does result in a lack of co-ordination between the three levels, which weakens the structure as a whole<sup>1</sup>.

The lack of specification of functions and powers between the three levels results in a feeling –at each level– that the other two have greater powers and resources. The devolution of powers in the States' conformity legislations is not merely seen to be inadequate, but the Acts are also generally vague about which functions are meant to be performed by which tier. There are also no mechanisms for co-ordinating the functioning of the three tiers. The criteria of functional efficiency and economy, as also of administrative resources, could have been used to define more clearly the role of each tier in the planning and implementation of programmes.

#### ***Ambiguities in the Panchayat-Administration Relationship***

The relationship between the panchayats and the local administration has been interpreted differently across States. The Government of Rajasthan amended, by ordinance, some of the provisions of the conformity act to increase the control of government over the two higher tiers. However, this is by no means definitive evidence of the superiority of elective over appointed authority. On the contrary, evidence is to be found in virtually all States of the dominance of the bureaucracy over the people's representatives. In Haryana, the bureaucracy is seen to exercise inordinate control, as it substantially guides and directs the developmental activities of the panchayats, instead of merely facilitating these. This relationship can become especially stifling in relation to panchayats headed by women, and even more so those headed by dalit women.

Further, lower-level government functionaries, attached to the panchayats, are also confused as they are simultaneously accountable to their superior in the government as well as to the elected leaders of the panchayats. A notable exception in this regard is the Conformity Act of Gujarat which provides for sectoral development staff of the gazetted

*The structural relationships between the various tiers of governance will, therefore, depend upon the attitude of the people manning them and their own commitment to the process of decentralisation*

<sup>1</sup> For instance, the Rajasthan Panchayati Raj Act does not provide for the sarpanch of the Gram Panchayat to be a member of the Panchayat Samiti, or for the Pradhan of the Samiti to be a member of the Zila Parishad.

officers' rank to be transferred to the panchayat institutions to carry out developmental work. Despite this provision, Gujarat has not been able to decentralise planning which Karnataka or Maharashtra have been able to do somewhat better, arguably due to a more long-standing engagement with panchayat institutions.

### ***Devolution of Powers, Functions and Resources in the State Conformity Acts***

While structures undoubtedly predispose institutions to evolve in particular ways, the most stringent test of any exercise in democratic decentralisation is the actual powers and functions that are devolved to democratic institutions at the local level, which must enjoy autonomy in the exercise of these.

The relevant article of the Constitution describes panchayats as institutions of self-government, but if the scope of self-government is externally defined and circumscribed, the institutions will be limited in this role. Article 243(G) itself provides for such circumscription, as it permits the States to endow the panchayats with powers, without actually making it imperative for them to do so. An examination of the powers and functions actually devolved makes evident the fact that the implications of the Constitutional Amendment were perhaps more radical in reservation provisions than in the powers and functions which were left to the States to determine and finance.

In fact, only three Conformity Acts – those of West Bengal, Bihar and Tripura – State that they aim to endow panchayats with powers and functions that can enable them to work as institutions of self-government. The Haryana Act specifically States that the objective of the panchayat institutions is to *administer* rural areas better. Indeed, Article 20, Chapter IV of the Haryana Panchayati Raj Act of 1994, specifies the “functions and duties” of the Gram Panchayat as follows:

“...it shall be the *duty* of the Gram Panchayat within the limits of the funds at its disposal, to make arrangements for carrying out the requirements of *sabha area* in respect of the following matters....” (Emphasis added)

It is evident that many of these problems relating to the structure of the Panchayati Raj system have implications for the functioning of panchayats, but that these become especially difficult in the context of panchayats headed by women is not often realised. The obstacles faced by women as members or heads of panchayats tend to be evaluated in terms of their own subjective perceptions, and are rarely related to the structural inadequacies of the Panchayati Raj framework.

### ***Regulatory and Development Functions***

The fundamental question before the institutions of decentralised governance has been whether they are there for development functions only or for the wider purpose of self-governance.

In his dissenting note to the Ashok Mehta Committee Report, E.M.S. Namboodiripad said “Democracy at the central and State levels, but bureaucracy at all lower levels – this is the essence of Indian polity as spelt out in the Constitution. I cannot think of the Panchayati Raj Institutions as anything other than the integral parts of the country’s administration with no difference between what are called the ‘development’ and ‘regulatory’ functions. I am afraid that the ghost of the earlier idea that Panchayati Raj Institutions should be completely divorced from all regulatory functions and made to confine themselves only to developmental functions is haunting my colleagues. What is required is that, while certain definite fields of administration like defense, foreign affairs, currency, communication etc., should rest with the Centre, all the rest should be transferred to the States and from there to the district and lower levels of elected administrative bodies”.

*The most stringent test of any exercise in democratic decentralisation is the actual powers and functions that are devolved to democratic institutions at the local level*

*The Central Government at the highest level of our federal structure has the responsibility to promote and nurture effective panchayats at the grassroots of the federal pyramid*

Article 243G of the Constitution which now governs the entrustment of functions to the Panchayati Raj Institutions (PRIs) makes it clear that the primary role of the panchayats will be in the area of development. Planning and implementation of programmes of economic development and social justice ought to be the focal points of their activities.

If the role envisaged for the PRIs, at least for the time being, is primarily in the field of development, how are they to perform this role alongside several other actors who are already in this field? What should be their relationship with the other existing structures of governance – the Central Government, the State Governments, the parastatals, the community based organisations etc., who also have their assigned roles in development. Admittedly, PRIs have entered the scene only recently. All the other actors have been in the field for several years by now. The rules governing them have either been defined or evolved over a long period of time. Do we need to bring about changes in these rules to facilitate the PRIs to establish themselves in their assigned place in governance?

Secondly, since all the three tiers of the Panchayati Raj Structure have the common goal of development, how to delineate their functions and powers in such a manner that there is space for each one of them without any significant overlapping?

#### **4.4 Reforms Required for More Effective Linkages**

##### ***The Central Government***

It has been at the instance of the central government that panchayats came to be established in most States at different points of time, barring one or two notable exceptions. Given this context, the Central Government at the highest level of our federal structure has the responsibility to promote and nurture effective panchayats at the grassroots of the federal pyramid.

For a truly rational pattern of devolution of powers to the PRIs, it may be necessary to review the entire gamut of powers and responsibilities from the Union to the Gram Panchayat levels. However, in the Indian context, the establishment of a strong Panchayati Raj system has never been a ground for demand for greater autonomy by the States. A strong State does not automatically mean that the State would have an active network of PRIs.

##### ***Centralised Planning and Local Autonomy***

In reality, the system of centralised planning which the country has followed for over four decades, severely constrains local autonomy. When such constraints operate at the State level, it is obvious that they would also be visible at the panchayat levels. Earmarking of a large proportion of plan provisions besides committing a substantial outlay for on-going activities in the Five Year Plans does restrict the extent to which a sectoral allocation can be altered by the panchayats. A large proportion of centrally sponsored schemes with tied funds and national guidelines has further aggravated the situation.

The limited availability of untied funds and severe restrictions in implementation tend to make PRIs agencies of the State Governments, rather than units of local government. There is a need to change the system of planning at the all India level. While the need to assign national priorities in key areas cannot be disputed, it is desirable that the scope of earmarking by the Planning Commission is suitably reduced so that the PRIs can have substantial untied funds, besides some say in the prioritisation which can make local planning more meaningful. The number and scope of centrally sponsored schemes should also be curtailed in terms of both range and volume. A gradual shift from sectoral planning to area planning appears necessary in the context of people's participation in the planning process.

The quantum of powers and functions that a State would want to transfer to the PRIs would depend upon the extent of power the State itself can obtain from the Central Government. The more it receives from the Centre the more it would be willing to transfer. It is therefore necessary to have a fresh look at the recommendations of the Sarkaria Committee dealing with Centre-State relations in the field of allocation of functions especially those relating to development sectors.

#### *Periodic Review*

A periodic review of the functions and powers that are delegated to the PRIs by the State Governments, in the context of the freedom available to a State Government for implementation of programmes in the development field, can also be initiated by the Central Government. The Planning Commission itself can initiate the process of activating the District Planning Committees to perform their role in decentralised planning as envisaged under 73rd amendment. It is possible for the Planning Commission to verify whether the district planning exercise has been scrupulously followed or not by the State Government, while finalising State Plan outlays as a part of its annual exercise. This will also put some pressure on the PRIs to prepare local level plans in time, duly taking into consideration the local needs and aspirations.

#### *Financial Adequacy and Discretionary Funds*

Availability of adequate finances and untied funds is necessary for the efficient discharge of functions assigned to any panchayat. Article 280(3) (bb) of the Constitution had cast a duty on the Union Finance Commission to make recommendations to the President on the measures needed to augment the consolidated fund of a State to supplement the resources of the panchayats in the State. This would be based on recommendations made by the Finance Commission of the State.

It is imperative that the Central Finance Commission is encouraged to make a liberal use of this provision to augment the funds of the PRIs so that the availability of funds can be linked to the discharge of functions assigned to the local bodies by the respective State Governments. A substantial provision of untied grants would also help in implementation of innovative programmes for the benefit of the people by the local institutions. It would also encourage the gradual shift towards area development mentioned earlier.

#### *Local Area Fund of MPs and MLAs*

It is unfortunate that soon after the PRIs came to be established, a discretionary development fund has been made available to each Member of the Parliament (MP) for local area development. The MPs' Local Area Development Scheme (MPLADS) grants at the recently revised rates account for over Rs. 1,500 crore per year and coupled with similar funds available to the Members of the State Legislature in some States, the sum of such grants may well exceed Rs. 2,000 crore per annum. These grants are not related to any specific development programme and as such they are untied funds available to take up local development works, which mostly fall within the domain of the local government institutions. It is desirable to dispense with such schemes that create a clash of interests at the local level. On the other hand, it would be desirable to place these funds as untied grants at the disposal of the PRIs themselves. A continuation of MPLADS and other similar schemes will only erode the importance of decentralised planning through local bodies as envisaged in the Constitution. Hence the need for the Central Government to take a lead in abolishing the MPLADS which will hopefully result in the abolition of similar schemes for MLAs now implemented by several States.

*The quantum of powers and functions that a State would want to transfer to the Panchayati Raj Institutions would depend upon the extent of power the State itself can obtain from the Central Government*

### *Centrally Sponsored Schemes*

If the development planning process has to be decentralised down to the panchayat level, this should go hand in hand with the Government of India reducing the range and volume of the centrally sponsored plan schemes, and allowing the State Governments to function freely in their allotted spheres. It should further be accompanied by suitable devolution of financial resources between them and from them to the panchayats. PRIs may lose interest in the preparation of plans unless adequate funds are provided for meeting the expenditure. Therefore, there is a need to increase the panchayat's area of discretion in spending their own funds and to ensure that the sectoral schemes of the line departments are coordinated and integrated by them.

### **State Governments**

The momentum of decentralisation at the State level requires political will and an enabling environment, and a resolution of angularities in Centre-State relations, as pointed by the Sarkaria Commission Report in 1986. The addition of the Eleventh Schedule to the Constitution listing out certain subjects for being looked after by the PRIs does not really mean that a constitutionally independent set of functions have now been allocated to the panchayats on the same lines as the allocation of functions between the Union and the States in the Seventh schedule.

Unfortunately there has been very little discussion on the problems that are being faced by the State Governments and the PRIs while implementing Article 243G both in letter and spirit. The allocation of functions under this Article does not in any way reduce the executive and legislative powers of the State conferred under Article 264 of the Constitution read with the Seventh schedule relating to the subjects over which the States have jurisdiction. In other words, it appears that the State

Government continues to retain both its legislative and executive powers in respect of the functions entrusted to the PRIs. The manner in which the State Government exercises its executive powers in these matters is determined by the State Legislation on the subject.

### *Functions Not Specified*

Similarly, the functions of each level of panchayats have not been spelt out in detail, especially with reference to the 29 subjects that have been listed in the Eleventh schedule. Since this has been left to the discretion of State governments, the progress on actual transfer of functions (as distinct from subjects listed in the Eleventh Schedule), there is considerable variation across States in terms of progress. In most States the principle of *subsidiarity* has not been fully observed in the devolution of powers and functions to the three tiers in a balanced manner. In some States the government departments dealing with these subjects have been brought under the administrative control of the PRIs whereas in many other States, the PRIs have not been given any powers to control either the staff or the budget or the schemes.

The functions to be performed at each level of panchayats must be clearly identified. The implementation of such functions would call for simultaneous amendments to subject-matter legislation to enable assumption of such functions by the panchayats. A clear delegation of powers may have to be given in matters not covered by legislation such as anti-poverty programmes, preparation of local plans, construction of roads, etc. The panchayats must be given specific powers to pool resources and undertake integrated local development. There should be no requirement to get any approval from higher levels of bureaucracy in the department of Panchayati Raj or in any other Government department.

*The functions to be performed at each level of panchayats must be clearly identified*

### *Monitoring Through Audit*

Monitoring should be only through annual performance reports and through audits. Individual decisions of panchayats should not also be subject to review or revision by the bureaucracy or by the Ministers at the State level. For the effective discharge of functions, panchayats should have control over the staff working for them. The panchayats can be empowered to hire their own staff over a period of time. Until then the staff deputed to them should work under the direct control of the panchayat concerned.

The State Government should have powers vis-a-vis the panchayats for the following reasons:

- The “hard budget constraint” and compression of public expenditure occasioned by the States’ fiscal crisis implies that the efforts to reform State finances must not be undermined by profligacy or “soft budget constraints” at the local level.
- State Governments have the responsibility to carry out the agreed national priorities and to ensure compliance of these priorities, they need to have some say over the implementation of programmes by the PRIs.
- Given the nature of available tax bases, the extent to which PRIs can raise funds through local taxation, is limited. They have to depend primarily on financial resources transferred to them by the State governments. While devices such as the Finance Commission awards may insulate resource transfer from political uncertainties, the transfer can be effected only through the budget, with the approval of the State Legislature. The answerability of the State government to the Legislature in respect of State funds will thus remain even in respect of the funds transferred to PRIs. To fulfil this obligation, the State needs to have some authority over the PRIs.

### *Strengthening Cooperative Federalism*

The problem of overlapping functions and jurisdiction between the State Governments and the PRIs need not necessarily be seen as reflecting an unsatisfactory situation with potential conflicts and confusion. The present situation actually presents a challenge to our polity which can be met by evolving systems of synergy between different levels of governance. We already have cooperative federalism evolved in this country where the Central Government formulates various schemes and shapes policy relating to several State subjects besides providing funds to implement such schemes.

#### *Integration of District Plans with State Plans*

Another issue that has the potential of conflict between the State Government and the PRIs relates to the integration of district plans with the State and national plans. Admittedly, the national plans have several objectives, which can be achieved only in the long run whereas district plans reflect the immediate needs of the people, which may sometimes overlook the long term need. Presently, the Planning Commission does the work of coordinating the State plans with the national plan. On this basis, Five Year Plans and the annual plans are finalised. A similar process will have to be adopted for approving the district plans at the State level. This could perhaps be done either by the State Planning Department or by setting up a State Development Council which will help in establishing the necessary coordination at all levels both in physical and financial terms.

While it may be easy to establish an institutional framework to coordinate the various district plans with the State and Central plans, *the more difficult task would be how to reconcile the process of decentralised planning with comprehensive State planning.* A healthy interaction between the different tiers of the PRIs on the one hand, the State Planning Units and the

*National plans have several objectives, which can be achieved only in the long run whereas district plans reflect the immediate needs of the people, which may sometimes overlook the long term need*

National Planning Commission on the other is, therefore necessary to minimise the effects of the inherent dichotomy between the freedom available to the PRIs and the discipline demanded by national planning. If the 'hard budget constraint' is not be undermined by fiscal profligacy at the local level, it would be necessary to integrate local and State plans, thereby ensuring that State level reform is driven by local imperatives as well.

#### *Dependence of PRIs on State and Central Funding*

The near total dependence of the PRIs on State and Central funding for their activities, necessarily limits their ability to develop into vibrant institutions of self-governance. The PRIs at present do not have any sources of tax income worth mentioning. A dependable system of revenue sharing with the Union and State Governments is still not in place, even though Articles 243-I and 280 (3)(c) provide for allocation of resources to the PRIs through the State Finance Commissions. In actual operation what has happened is a mere transfer of certain schemes with related tied grants from the State Government to the PRIs. A great deal of streamlining is also needed in the procedure associated with the release of funds to the PRIs, before such transfer of funds can confer any reasonable degree of financial autonomy on the panchayats. To augment the available resources of the panchayats, it is necessary that all plan funds are placed at the disposal of the concerned panchayat with a clear mandate to implement the scheme for which the funds are meant. The PRIs can also be authorised to tap the untapped resources such as water rates for commercial crops etc., The agencies working at the district level discharging functions that fall within the ambit of the PRIs should be abolished and their objectives transferred along with the functions and finances to the PRIs. This includes the district rural development agency, the drought prone area programme committees, etc.

#### *Availability of Functionaries*

Availability of functionaries is as important as the provision of functions and funds to the PRIs. The overlapping control of PRIs and State Government over the administrative machinery for implementing development programmes entrusted to the PRIs reduces the functional autonomy of all these bodies to a considerable extent. In addition, the panchayat functionaries, who are on deputation to these institutions from the State Government, as in Karnataka, may continue to regard themselves as government servants only and may tend to look up to their State level seniors than the elected leaders of the panchayats for guidance and leadership. This situation is further compounded in some States by the control exercised by the legislators over local administration through the mechanism of annual transfer of officials which is effected by the State administration largely at the initiative of the legislators and the other State level political leaders. This practice of large scale official transfers at the initiative of legislators can seriously undermine the functional autonomy of PRIs, besides contributing to the dilution of administrative accountability. A series of changes would therefore be required in the administrative arrangements for programme planning and implementation in respect of the schemes and programmes transferred to the PRIs for implementation.

Though a good part of administrative machinery can be easily transferred to work under the PRIs, yet the PRIs cannot work in isolation of the other Government structures at the local level. For instance, several departments such as cooperation, command area development, land revenue etc., have a tremendous bearing on the effectiveness of the PRIs, even they are not listed under the Eleventh Schedule. Institutional arrangements will have to be made to provide for dialogue and direct communication between the PRIs and these

*A great deal of streamlining is also needed in the procedure associated with the release of funds to the Panchayati Raj Institutions, before such transfer of funds can confer any reasonable degree of financial autonomy on the panchayats*

organisations. The district planning committee can perhaps play a crucial role in this regard.

#### *Parastatal Organisations*

Many States have, over a period of time, set up a number of parastatal organisations to meet the self-employment and economic development requirements of vulnerable sections of society. Some of these institutions have an in-built bias for social justice. For instance, the Finance Development and Housing Corporations set up for the Scheduled Castes, the Scheduled Tribes, the Backward Classes, the minorities and women, both at the Central and State levels invariably deal with subjects which have now been assigned to the PRIs. These institutions were basically conceived for mobilising finances from leading development institutions such as the NABARD, the Land Development Banks, etc. Budgetary grants are also made in favour of these institutions by the State and Central Government to facilitate mobilisation of further finances from commercial institutions, using these provisions as margin or seed money.

In the context of the Eleventh schedule of the Constitution, these institutions appear to be eminently suited for transfer from the State level to the PRIs, mostly at the district level. All their programmes whether aimed at infrastructure or at individuals or a combination of both, requiring forward and backward linkages are implementable and can be implemented by the PRIs. The only action that is required is to transfer in their entirety these institutions to the PRIs with all their budgets and staff. In doing so, care should be taken to associate all the existing technical and administrative personnel in the functioning of the programmes concerned so as to ensure that their experience and expertise continue to be available to the decentralised local institutions. If in some cases, it is felt absolutely necessary to keep a particular parastatal outside the

purview of the PRIs, in view of its larger area of operation which may extend beyond a district and require coordination between the districts, it is necessary to build up working relations between the District Panchayats and the district unit of the parastatals. This may include the constitution of monitoring/coordination committees at the cutting edge levels, in addition to a legal provision compelling the attendance of the representatives of the parastatals during the meetings of the concerned panchayat whenever required.

### **5. Contribution of PRIs to Governance Structure**

#### ***Forum to Explain Development Strategies***

Firstly, the PRIs, and more particularly the Gram Sabhas, can be made use of by the higher tiers of governance as a forum where they could explain their development strategies to the people and receive valuable feedback on the problems arising out of the implementation of their programmes. The Gram Sabha should be encouraged to invite members of higher level panchayats, legislature and even the Parliament to participate in their meetings and articulate their needs in their presence. Higher level Panchayats and the State Governments can also depute a designated officer to each Gram Sabha to have the views of the Gram Sabha recorded and reported to appropriate level of governance for information and mid-course correction wherever necessary.

#### ***Inter-Sectoral Convergence of Development Efforts***

Secondly, the PRIs can play an effective role in convergence of development efforts at the local level. This convergence can be of two kinds – one, internal to the efforts of the line departments working under the control of the PRIs and another external by converging the efforts of the line departments with the efforts of the organs of the larger society

*The Gram Sabha should be encouraged to invite members of higher level panchayats, legislature and even the Parliament to participate in their meetings and articulate their needs in the presence of the invitees*

*Voluntary councils of experts and eminent citizens constituted by the Gram Sabhas can evaluate the work carried out by the panchayats and judge their quality, effectiveness and conformity with accepted norms*

outside such as research bodies, universities and voluntary organisations. The sectoral allocations made at the Central and State levels can be amalgamated to prepare an area-wise plan at the local level and this can form the basis for converging the various programmes under implementation within the jurisdiction of the panchayat concerned. The district planning committee can play an effective role in the external convergence, by involving the academicians, researchers and other non-governmental organisations in plan formulation and wherever necessary for monitoring and evaluation as well. The PRIs can ideally be the mechanism by which various government initiatives for the poor and disadvantaged can be synergised to yield the maximum benefits by ensuring effective delivery.

#### ***Enhance Accountability of Elected Representatives***

Thirdly, the Gram Sabha which readily provides a forum for accountability that can compel an elected representative to face his constituency periodically, can be activated so that the elected representatives are made to explain to the electorate what they had done and what they propose to do. The Gram Sabhas, if regularly conducted, can definitely achieve the purpose for which they have now been created, by providing a ready and effective forum of accountability not only for the Gram Panchayat members but also for the elected representatives of the higher tiers. This would augur well for our democratic polity.

#### ***Initiate Social Audit***

The existence of the PRIs can help in introducing the process of social audit at the local levels. Voluntary councils of experts and eminent citizens constituted by the Gram Sabhas can evaluate the work carried out by the panchayats and judge their quality, effectiveness and conformity with accepted norms. The PRIs can also ensure wide publicity for their activities among the people through the

Gram Sabhas. Steps can be taken to provide access to official records and accounts at least at the Gram Panchayat level and this can be extended to the higher tiers over a period of time. Such arrangements for ensuring transparency in administration can be fully operationalised throughout the country on the basis of the experience gained at the local levels. The activities of the various community based organisations working at the village levels can be effectively monitored by insisting on their reporting to the Gram Sabhas of their activities. These include the watershed development committees, the user groups under the water supply and sanitation programmes, the parents' committees constituted under the district primary education programme, the joint forest management committees etc., Even the voluntary organisations working for the benefit of the poor within the jurisdiction of the village can make use of the Gram Sabha both for dissemination of knowledge and also for better implementation of their own programmes with community participation.

#### ***Ensure Better Performance of Public Facilities for Education and Health***

If the Panchayati Raj structure takes a firm root in our polity, one can hope for better results at least in two areas, which are largely governed by the Central and State Governments. at present – namely primary education and rural health. It may not be out of place here to mention that the Zila Parishad and Mandal Panchayats Evaluation Committee constituted by the Government of Karnataka in 1989 came to the conclusion that during the two tier panchayat regime in Karnataka “attendance of school teachers, medical officers, para-medical staff in rural institutions improved remarkably”. Such a conclusion can be expected, as the lower level panchayats are bound to take an active interest in the performance of the primary schools and the primary health centre operating within their domains, as compared to the State and Central

Government functionaries located far away from these institutions. Since the success of development efforts in this country largely depend on significant improvements in the education and health sectors, strengthening of the PRIs and devolving adequate powers on them would go a long way in reaching our goal.

The success of this system would however depend on how the PRIs integrate themselves with the other existing structures of governance, for the benefit of the people. Of course, there is also the need for providing an enabling environment. What are the minimum ingredients of such an enabling environment?

### ***Ingredients of an Enabling Environment***

- Firstly, local government, as we noted earlier, is essentially a power sharing mechanism. It is not reasonable to expect a national regime that feels its own legitimate powers to be threatened, to undertake any experiments in power sharing. Thus human security and peace is the pre-requisite for successful local government.
- Without a strong political will, an autonomous local authority, even if there is one, will always remain the weaker party in any conflict with a nationally based department functionary.
- The third pre-requisite is strengthening the poor, so as to protect them from the control and exploitative behaviour of the rich. The strengthening of PRIs must be undertaken in the broader context of measures to empower the poor if there is to be genuine participation of the disadvantaged in local government activity. These steps could include redistribution of assets through an effective implementation of land reforms as was done in West Bengal and Kerala, development of common property resources, efficient public distribution system, ensuring the access of the poor to schools and health facilities and ensuring the effective functioning of these facilities.

- It must be recognised that the local governments not only need guidance from above but they also have to be defended against any erosion stemming from outside. The need to build up a local government sector within every higher level of government which understands decentralisation, is committed to its aims and is able to defend it, requires no emphasis. An association of local governments, operated by the local authorities themselves can also play a supplementary role in protecting the corporate interests of the entire sector.
- Another key element for the success of PRIs is the change of mindset from one that works *for* the people to one that works *with* the people. This would require a re-orientation of both the bureaucrats and senior politicians at the central/provincial levels, from an attitude which is centralizing, control oriented and populist to one of sharing authority through regular institutions of democracy. This can be achieved through a process of training and fresh institutionalisation.
- Finally, comes the need to train local government representatives themselves for their new role. The PRI representatives and local officials must devise mechanisms for collaboration in the context of direct democracy. It is in their interest to understand each others' problems and limitations at a very early stage and in smaller territories where the problems are comparatively easy and manageable. The attitudinal differences between the politicians and bureaucrats can be brought down to an acceptable level over a period of time, as both the groups gain experience in working together and managing local administration. Till then, the need to train both of them independently and also jointly with a view not only to equipping them for their tasks but also to co-exist harmoniously will remain.

*Another key element for the success of Panchayati Raj Institutions is the change of mindset from one that works for the people to one that works with the people*

## 6. Decentralisation and Urban Local Bodies

### 6.1 Features and Critique

#### Main Features

The key provisions of the 74<sup>th</sup> Constitutional Amendment which pertains to urban local bodies are given in Box 5.

#### A Critique of the 74<sup>th</sup> Amendment

Several academics, administrative and constitutional experts have reviewed the act from a critical perspective. Drawing from these documents, the following issues can be highlighted:

- The XII Schedule is not mandated and it is up to the State governments to decide as to

which of the 12<sup>th</sup> Schedule functions may be devolved to the ULBs. Most States, have amended their acts to include part or in some cases all of these. Studies suggest that only marginal changes that were regarded as mandatory have been carried out. A comparison of the State legislation' with central Act reveal that few State governments have availed of the opportunity presented by the 74<sup>th</sup> Constitutional Amendment to clarify municipal functions listed as 'obligatory' and 'discretionary' and avoids overlapping institutional functional and geographic jurisdictions.

- In almost all States with the exception of West Bengal and Kerala, political decentralisation has not been backed by enough financial devolution. Thus, ULBs have to depend upon the State government's political and bureaucratic lobbies to access funds. Also, there is still very significant dependence in terms of permission seeking for even relatively simple matters. This further reinforces the lack of financial devolution.
- While provisions for reservation for SC/STs and women have been made in accordance with the constitutional provisions in all States, in its details this does not reflect the spirit of the 74<sup>th</sup> Constitutional Amendment. For example, the decision of which seats are reserved need not follow any set criteria and could be used for political purposes by the ruling party. This situation undermines the effort to broad-base participation by women and ST/SCs.
- Similarly while legal provisions for the constitution of ward committees have also been made in most States, the actual spirit of the amendment is diffused since State Governments can "club" several wards together to form a single committee. Also, while they can be given wide-ranging powers, this does not necessarily co-relate with financial

*In almost all States political decentralisation has not been backed by enough financial devolution*

#### BOX 5

#### The 74<sup>th</sup> Constitutional Amendment: The Urban Bill of Rights

*Institutions of Self-governance:* Municipalities are visualised as 'institutions of self-government', with the capability to prepare 'plans for economic development and social justice'. They would functions pertaining to the XII Schedule and additional ones entrusted by the State Government. The XII Schedule is an illustrative list and not a directive one.

*Ward Committees:* It is mandatory for Corporations to constitute Ward Committees. These would include representation from women, citizens' groups, SC/ STs etc. in cities with a population of over 0.3 million. For lower level of Urban Local Bodies (ULBs), the State government can decide. The Wards Committee is to bring governance closer to the people and could be empowered to carry out the responsibilities of the ULB including those of the XII Schedule

*District Planning Committees:* To effect spatial and economic development, and also rural and urban planning, the act advises the constitution of District Planning Committees (DPC) and Metropolitan Planning Committees (MPCs) with majority representation

of elected local representatives.

*State Finance Commission:* To ensure financial stability of ULBs, the act mandates the constitution of a State Finance Commission (SFCs) every five years. This would review the financial position of rural and urban bodies and recommend devolution of taxes, charges, fees, tolls, duties, shared revenues mid inter-governmental transfers to municipalities and other measures. Based upon the recommendations of State Finance Commission, the Central Finance Commission is expected to suggest measures for augmenting the consolidated funds in a State, for supplementing the resources of municipalities

*State Election Commission* To ensure a democratic process, the act mandates the creation of State Election Commissions (SECs). This would oversee, direct, and control the preparation of electoral rolls and conduct elections to rural and urban bodies. Another key task of the SECs is to ensure that election to municipalities dissolved by the State government, be held within 6 months of the dissolution.

allocations. One could argue that the positions of the councilors, the building block of a municipal and democratic system still remains undermined. Traditionally, they formed critically important conduits for local priorities and also to ensure accountability. This group finds little or no mention.

- All the States have established SFCs and by March 1997, 10 SFCs had submitted reports to their respective State governments. There has been, however, a substantial time-lag between the submission of the SFC report and its placement in the State legislature. Here again, it is up to the State Government to indemnify funds being allocated to ULBs against inflation.
- The SECs have been established and have conducted elections in all ULBs except a few North Indian States. By January 1997, about 60,000 elected representatives in 15 States have assumed their positions in various ULBs. An emerging issue is that of adequate training and grounding of new councilors in matters of municipal administration and conduct. This happens at present, largely via the party system and peer group support.
- DPCs have been set up only in Kerala, Madhya Pradesh and West Bengal. Here, separate legislation has been enacted for the purpose. As yet, no State government has notified a Metropolitan Planning Committee. Kerala is in the process of drafting legislation on the issue. No State has been able to take specific action on the situation of Development Authorities except Kerala where the process is underway. Kerala has also attempted to bring various line agencies under the ULBs or RLBs.
- Short duration of the terms for Mayors and Presidents make for poor programme implementation and tighter State government control over ULBs. It is not

surprising that this is a significant issue of debate. Mayors in Karnataka have a term of only one year, while Presidents of a TMC, for two and a half years. Kerala and West Bengal in contrast provide a longer term for mayors / presidents. The length of terms affects the implementation of programmes. This is especially when clearances are required by the State Government at each stage. Most significant, the leadership in ULBs would be fractured in the setting and implementation of developmental priorities. By default, project proposals and the State political parties would influence clearance.

Despite the growing realisation of the limitations of the 74<sup>th</sup> Constitutional Amendment, it is significant that there is almost no evidence of a reversal of a democratic situation as having positive impacts. A careful reading of the opinions documented suggest that what constrains the local elected system is the powerful and omnipresent presence of the State Government reinforced by the political party system. Both together suppress any local initiative, promote political clientalism within the political structure itself, and reward passive party obedience rather than actual ground work.

This raises another important issue. Even when there is an elected body in place, unsuitability in the local political arena can take a serious toll on local governance, which is to the advantage of higher levels, political circuits. There are obviously financial aspects of this issue. Ghosh notes that in the case of Punjab, *municipal bodies do not get proportionate benefit of the growing richness of the cities because of high industrial growth*. While the net value added from industrial production increased on an average by 173 percent annually in 1970s and 1980s, municipal incomes have grown only by 69 percent during this period. In Bengal, despite the adoption of the Mayor in Council system, the State Government via the

*Short duration of the terms for Mayors and Presidents make for poor programme implementation and tighter State government control over Urban Local Bodies*

Municipal Affairs Department promoted a Revised grant scheme. While aimed to lay emphasis on financial streamlining, this seems to reinforce State control over ULBs. The point here is to recognise that the situation is full of cross currents. It is important to realise that such amendments are part of a longer-term political process – shaped by the experience of their implementation in a diverse country as India.

## 6.2 Urban Local bodies and Poverty Issues

This section addresses issues relating to the 74<sup>th</sup> Amendment (principal features outlined in Box 5) from a developmental perspective framed along the following two themes drawn from case studies and experiences from various parts of India:

- **Productive Cities:** Where livelihood opportunities are maximised for poor and other groups via local economies.
- **Institutions and ‘Good politics’:** Where poor groups facing competition from other more powerful groups in society, can access resources and shape the nature of public investments. This includes poverty programmes that address the systemic and structural conditions of poverty.

A common thread binds these themes - the key role played by local bodies, and its representative agents.

- The 74<sup>th</sup> Amendment is part of a larger process of political decentralisation that in turn relates to rapidly emerging local economies. Thus, even prior to the enactment, a close study of the urban terrain in both metropolitan and small town settings reveal that effective social and economic change has happened via civic actions pushing for political decentralisation. This has in turn shaped the nature of institutions and also to some extent, the political process.

- The Amendment does provide institutional openings that respond to such on going changes. For instance, the stress on the stability of municipal institutions, reinforcing the ward as a focus of developmental activities, are important starting points. Perhaps the most important is the revival of a local political and (perhaps economic) identity. This revival helps to question the dominance of para-statal agencies over local bodies and State level political circuits over local ones.

- It is critically important in this respect, that international development funds give serious attention to processes of decentralisation. This is at two levels. First, to structure development programmes which provide a legitimate place to local elected representatives and municipal bodies; Second, to ensure that funding routes do not undermine their legitimate and developmental functions. This attention to issues of local governance is important from several aspects: From the point of social justice to be responsive to the needs of those groups in situation of severe poverty; Second, to help make programmes sustainable. This is both political (to minimise a post funding political backlash) and economic (by helping local bodies tap the wealth created from urbanisation).

Recognizing existing decentralisation efforts and the openings provided by the 74<sup>th</sup>. CA would go a long way in addressing these issues and allow for greater “local ownership” in the longer term.

## 6.3 Trends in Urbanisation and Civic Participation

Cities today also reveal increasing disparities between rich and poor groups manifest in neighborhoods with contrasting levels of civic amenities. Earlier, among planners, administrators and economists, ways of defining and dealing with urban problems was seen to be

*The 74<sup>th</sup> Amendment is part of a larger process of political decentralisation that in turn relates to rapidly emerging local economies*

one of management. Recent recognition of the complexities has shifted this view to one of governance. Mechanistic solution to problems is replaced by a closer look at economic growth in terms of its institutional processes, and administration in terms of the extent and form of civic participation. In this perspective, the 74<sup>th</sup> Constitutional Amendment needs to be viewed from its societal and developmental perspective.

To respond to these complex changes governance has to give space for innovation and flexibility. Urban management can no longer be assumed to be a static, top-down, State centred, and set in a long-term horizon. In the last decade or so, policy makers and academics have recognised the innovative role of local governments. Here, a key issue has been of representation. Disparities of resources between rich and poor in its most fundamental sense, represents a serious fracture of governance. The 74<sup>th</sup> Amendment, has to be seen as part of a larger process of political transformation.

In this transformation, local governments can no longer remain as passive sub-contractors of centralised schemes. They are increasingly pushed to take on a proactive and development role. This is obviously not an easy situation for higher levels of government. Since Independence, with the task of nation building heavy on them, they have been constituted by interest groups used to deciding on issues in a centralizing way to ‘plan’ solutions for “problems” at the lower level. This forced reversal of roles not only implies a different way of working, but also very different attitudes and relationships. The traditional way of centralised control needs to give way to a judicious mix of support from higher levels of government to ensure the stability and continuity of developmental programmes, and more than sufficient autonomy which allows Local Bodies to develop management strategies that can respond to local situations.

This raises issues in the context of broader developmental questions. To do this, we first highlight some key questions that confront policymakers such as:

- How are cities of the future going to provide livelihood to their growing populations?
- How do we conceptualise increasingly complex urban economic processes that would provide livelihood to these groups?
- What would be the form of institutional and political processes that would underlie these economic structures?
- How are governments going to respond? Is it going to be more of the conventional poverty and employment projects that will address these issues?
- What could be the nature of governance? Will the civic process, recognised as a key element of urban management, be restricted to more active roles by NGOs, or will they form part of a broader spectrum of social activism?
- How would international funding agencies respond and at what level?
- How can public policy, at an operational level, tap the wealth created by urbanisation and facilitate its reinvestment in a way that generates jobs, and makes cities productive?

There are three aspects in defining a direction of investigation to address issues raised by the above questions.

*First*, rather than speculating about the future structure of cities, it seems useful to first start by understand parts of cities and towns that support large numbers of people, and try and see as to what makes these areas tick. This requires a fine grained and cross-sectoral approach.

*Second*, to understand the complexities of urban structure, we need to use an appropriate

*The traditional way of centralised control needs to give way to a judicious mix of support from higher levels of government to ensure the stability and continuity of developmental programmes*

conceptual framework. It is almost certain that the conventional Master Planning approach to understand urban structures is inadequate. Here, various functional aspects are seen in a compartmentalised fashion as specific land uses Residential; Commercial; Recreational; and, Industrial. This approach misses out important local characteristics and also to link spatial issues with economic ones. A strict econometric approach too seems equally problematic. These fail to clearly identify the complicated institutional and political aspects of economic processes. This approach also often uses a framework centred on “Sectors” more appropriate as a form of accounting rather than conceptualizing development. Finally, a key issue of urban growth is one of land. Land has significant non-economic aspects and important locational attributes.

In a conceptual framework, it is also important to move away from a narrow “poverty” focus, and consider the situation of poor groups in a relative sense. This is important since the situation of the poor in relationship with other groups will shape the nature of urban management, its economy, forms of representation and political structures in substantive ways along two broad themes of productive neighborhood and good urban governance<sup>2</sup>

**“Productive Neighborhoods” for “Productive Cities”**

A close look at cities reveals an interesting paradox. Projects to promote employment and poverty reduction have had a limited impact. Even so, poorer groups have evolved mechanisms and institutions that positively impact their livelihood situation. Of particular significance here, is the local economic structure that has emerged in many cities and towns of India. What started off as residential neighborhoods in fact, get transformed into significant livelihood clusters of intensive commercial, manufacturing and service activities. The

economy generated from these livelihood nodes, rather than being “marginal” and part of the “informal sector”, are very much part of the mainstream economy. They generate widespread employment that reach far beyond the physical boundary of these neighborhoods into the national, and at times even global level.

*The Importance of Land in Livelihood Issues*

A critically important issue in urban planning and management is that of land management. Detailed research in these settings reveal that land issues form a core issue of such productive settings. This is what we term as “flexible settings”. Such settings are found in most small towns and cities in India, although called by different names and subject to varying local regulation. Some towns and cities have settlement types that are unique to their particular history. Baroda in the Western State of Gujarat, and Madikeri in the Southern Indian State of Karnataka for instance, have settlement types that were formed out of royal ordinances. Kanchipuram, like many other temple towns, has a bulk of its land that existed under a dual form of tenure on a leasehold basis from the various temples. Despite this diversity, most towns and cities have very similar forms of land settlement types. The most common ones, in addition to Master Planned sub-divisions, are

- Privately sub-divided land usually both on urban peripheries and central city areas
- Urbanised villages
- Traditional city housing
- Squatter settlements

Flexibility in these settings comes out of several aspects that allow an efficient functional and economic relationship between economic activities such as possibilities for incremental development, a locally defined regulatory environment and one that allows for mixed land use, and a diversity of tenure conditions.

*A critically important issue in urban planning and management is that of land management*

<sup>2</sup> These themes also incorporate other aspects like gender issues, the urban environment, finance, infrastructure

These characteristics allow for a local economy to evolve in response to changing market conditions and in tune with the particular mix of enterprises locating there. Thus, just as clusters specialise in particular items of manufacture and are constituted by a particular grouping of enterprises, their land setting also acquires particular characteristics. An important aspect of these land settings is also that often their incremental development contributes to a vigorous real estate market that funds the local economy and also acts as a source of investments.

It is also significant that of the above types of settlement, private subdivisions are the most common. These often amount to between 50 percent to 75 percent of total residential land. Master Planned neighborhoods range between 10 percent to 15 percent of total residential land. In metro-settings, while Master-Planned areas increase as a proportion of total residential land so does land occupied by squatter settlements. In smaller towns and cities, both areas under squatter settlements and Master Plan areas decrease while the proportion of private subdivisions increases. Thus one can assume that a large proportion of urban land has inherent flexible characteristics: Depending upon locational, market, and other factors, it could develop as a setting for local economies.

### ***Good Urban Governance - Role of Local Bodies***

ULBs have an important bearing on the evolution of flexible land settings. This is despite the fact that officially, land policy is decided at the State level. ULBs are envisaged to have a maintenance role. In reality, while it is true that ULBs have almost no role in the Master Planning process, their “maintenance” includes the upgrading of infrastructure, regularisation, and the provision of civic amenities. The significant point is that it is these very actions that spur economic linkages, productivity, and livelihood

opportunities. Local government can be key mediators in this complex process.

Land issues, especially those relating to regularisation and extension of services, have been long recognised as having important institutional and political dimensions. This is true of almost all these flexible land settings, since they have evolved outside the planning process. Thus, any improvement of infrastructure is highly politicised. The political aspects are emphasised since settlers in these areas, especially poorer groups, lack any other mechanism except the elected channel of the ULBs to channelise their demands. Councillors, members of the Standing Committees and also at times, higher level political representatives like MLAs / MLCs and MP play a key role in pressuring the administration and planning institutions to either recognise the local realities. They also become important agents to stop or diffuse actions that disrupt the essential livelihood generating characteristics.

Detailed research on livelihood clusters suggests rather than as a result of a particular design, “flexible” aspects of land are shaped by a congruence of interests and institutions. A very significant issue here is that ULB actions having a significant impact on urban poverty, productivity and livelihoods, does not come from any formally established development programmes for poverty alleviation and employment generation. Rather, these actions relate to ULBs being pressured by a local political process promoted by groups with a direct stake in livelihood.

ULB centred programmes also ensure that local groups can use public inputs creatively in conjunction with their own locally available resources and complimenting skills to achieve a powerful force multiplier. Local representation is also important to ensure the efficacy of developmental programmes concerning poverty alleviation and employment

*Land issues, especially those relating to regularisation and extension of services, have been long recognised as having important institutional and political dimensions*

*Strengthened and responsive municipal organisations are necessary to ensure effective health and education programmes*

generation. For instance, an initial review of the operational structure of both successful and less successful programmes suggests two important aspects: The key role of ULBs and the extent of local participation. It is well recognised that strengthened and responsive municipal organisations are critically important to ensure effective health and education programmes, including a coordinating role for the private sector. This is critically important to reduce absolute poverty.

The pivotal role of ULBs in ensuring that cities remain productive for poor groups while addressing issues of poverty alleviation is based on two factors: First, it is primarily ULBs that are responsible for civic improvements, which spur livelihood opportunities. These actions are also instrumental in addressing issues of health due to the direct environmental linkages. At a more political level, ULBs form the key institution through which local groups, especially poorer sections of civic society, channelise their demands.

### ***Parastatal Regimes as Constraints to Urban Productivity***

Experts on public administration have written extensively over the last two decades about the increasing powers of parastatal and special purpose institutions. These institutions are promoted by State government political interests, and have effectively taken over substantive areas of urban management. As a result, ULBs have been left with maintenance functions. A brief historical review of governance in India is useful to understand that this has been a historical process, with the 74<sup>th</sup> Amendment only one part of it.

India has a long tradition of urban local bodies dating back to 1688 when the Madras Corporation was constituted as the first corporation in South Asia. This was followed by the Calcutta, and Bombay Municipal Corporation in 1726. The consequences were two-fold:

- First, as a political objective, it provided the powers of governance to the local elite. These groups were set in place by virtue of their social standing, rather than via democratic elections. This was important to ensure political control and also for the transfer of resources.
- The second was a concern with public health. Decentralising these functions would be more effective in controlling and preventing epidemics that could threaten all classes.

After Independence, democratically elected representatives replaced managers and the local elite who were previously nominated by the colonial powers. This brought opportunities for greater democracy and enhanced the role of local representatives. However, there was a roll-back in the 1970s, with the setting up of special purpose institutions, which has eroded the functional and development base of ULBs.

Initially, these institutional changes were made to effect “comprehensive planning” centred on Master Plans. In recent times, a much wider range of parastatal agencies – not only Development Authorities, characterise urban management. These agencies, often under the highest level of State government authorities, function as management entities for “Mega” infrastructure or urban development projects.

In this situation, it is not surprising that most municipalities were and still exist in a financially precarious position. In 1986-87, the income of all municipal bodies in Class 1 towns exceeded their expenditure only by Rs. 311 million. The overlapping territories and responsibilities between ULBs and Development Authorities led to problems of non co-ordination, and more seriously increased corruption and lack of accountability. This criticism against Development Authorities is very important as these developments have a serious impact on livelihood generation in the following ways:

- *Regressive land policy:* The form of land policy resulting from Master Planning is highly regressive to local economies in two ways. First, Development Authority promote unrealistic land use regulations like unilateral and rigid land use and setbacks that go against the very grain of local economies. Due to this, master planning de-legitimises most non-master planned areas including livelihood nodes. Second, a key aspect of a productive and flexible land setting is that enterprise clusters exist in a situation of diverse tenure regimes. This allows for a variety of firms to locate in close physical proximity. Development authorities among other parastatal agencies, instead promote a very narrow spectrum of legality which is not accessible to most poor groups. This in turn is reinforced by strict master-planning norms.
- *Burdening ULBs with financial obligations and constraining their operational area:* Most large scale funding for infrastructure and other capital-intensive works are routed through parastatal agencies. These institutions often define the kind of projects funded under such allocations and the terms of borrowings. However, the burden of repayment of both capital and interest falls onto ULBs. Since ULBs have little role in defining the projects, it is not even clear if the proposed projects actually address the needs and situation faced locally. Just as the ULBs have little say in the matter, there is little or no public process involved in the decision making. Parastatals reinforce each other's presence to institutionally crowd out ULBs. The multitude of institutions reinforces this situation, by promoting developments that effectively "pirate" civic services by ULBs without adequate financial remuneration. All this means that while ULBs are hard pressed to respond to livelihood nodes, they have to also contend with these white elephants. Such centralised relationships also

impact the creative potential of local bodies to be more efficient.

- *Reducing the wealth creating effects of infrastructure:* It is important to realise that local economies represent wealth created by urbanisation. Economic productivity comes from the action of people coming together, urbanising and whose productivity is boosted by ULB upgraded interventions. A significant proportion of this productivity is reflected in the active local land markets. Thus, a very significant problem of urbanisation would be solved if ULBs can recoup some of these surpluses to pay for infrastructure and investments. This is not easy. However, there is strong evidence that a regime of parastatal organisations reduce possibilities for public authorities, especially ULBs, to use such sources. The basis for local political autonomy lies in financial autonomy brought about by tapping growing local economies. Possibilities for negotiation directly threaten higher level political circuits. ULBs in tapping the wealth of urbanisation, would be part of a highly political process.

The points highlighted above suggest that urban governance plays a structural part in effecting livelihood settings to emerge. A regime of parastatals not only roadblocks these efforts but increases the dependence of local bodies on higher levels of government. In contrast, a regime of governance centred on municipal structures is critically important not only to ensure the health of livelihood settings but also to generate a political process that sustains this situation. Local bodies play a significant mediating role between different competing groups in distributing infrastructure that spurs the productivity of these economies. Thus, strengthened local democracy helps poor groups to represent their priorities to government to shape their interventions in infrastructure and regulation to ensure the maximum positive impact on

*A regime of governance centred on municipal structures is vital not only to ensure the health of livelihood settings but also to generate a political process that sustains this situation*

*Urban Local Bodies need to regain the developmental terrain that has been encroached by higher level institutions*

livelihood opportunities. In conclusion, the above discussion suggest a triangular relationship underlying urban productivity:

- Local economies generating vast livelihood opportunities.
- Flexible land settings that spur and often fund the local economy.
- Local governance centred on political autonomy strengthened by local economic surpluses.

It is important to recognise the wider terrain of interventions influenced by ULBs, rather than be restricted to a conventional and official view of their roles and responsibilities. The impact of the 74<sup>th</sup> Amendment must therefore be viewed in this wider developmental perspective. Not surprisingly, the fracturing of municipal bodies, their finance, and functions exists in parallel with increasing disparities between poor and rich groups – reflecting their unequal bargaining power in access to resources. Thus, it is specifically important that international funding agencies recognise the role of ULBs, rather than bypass them in framing development priorities and programmes.

### ***Summing Up: Urban Self-governance as the Basis for “Good Politics”***

Development is inherently a political process shaped by actions of individuals, groups, and institutions. In this context, it is useful to define “good” politics. One definition based on our discussion till now, could be those political structures that are responsive to poor groups and strengthens their livelihood opportunities. In other words, “good politics” is related to a governance regime centred on ULBs. In order to understand the implications of the 74<sup>th</sup> Constitutional Amendment on this perspective, we see two key aspects of Municipalised governance.

- *Local governance via effective civic representation:* This includes two aspects: The first is ensuring substantive operational spaces for

councillors and also specific parts/ positions of municipal organisations – namely Standing Committees/Mayors Presidents/ Dep. Mayors and Vice Presidents. The second relates to position of civic organisations like Associations/ Sanghs, NGOs, Federations, Ward committees. For effective representation, a governance regime must maintain institutional openings that allow these groups to access and directly influence decision-making. This must be not only reactive to programmes already prepared, but be pro-active in allowing a review of base information, a critique of assumptions used to formulate actions.

- *Diluting and making parastatal regimes more accountable:* ULBs need to regain the developmental terrain that has been encroached by higher level institutions. In particular, land policy and resource mobilisation is a critical area. In parallel, parastatal agencies while they exist, need to be constituted on the basis of broad-based local representation.

Our conclusion is that local democratic processes, however uneven and unruly, need to be fostered since these are the basis for the emerging productive structure of cities, and ones that directly affect the lives of their under-privileged. Efforts by National Governments and International Aid agencies need to be sensitive to these emerging institutions and ensure that programmes and interventions do not undercut them.

## **7. Women’s Representation in Local Government: Creating a Politics of Presence**

In the aftermath of the elections to panchayati raj institutions in the various States, several studies have appeared, evaluating the experiment of women’s representation. Most such studies have adopted survey methods to evaluate the nature of women’s participation in panchayats.

The choice of methodology leads unavoidably to a focus on the subjective perceptions and attitudes of women representatives and, at best, those of some male colleagues, relatives and officials. In what follows, we will summarise the findings of these studies and seek to extrapolate from them, commonalities and variations relating to the participation of women in these institutions across different States.

The analysis will also overstep the customary boundaries of such studies by crossing over into the domain of the panchayati raj institutions *per se*, their structure, powers and possibilities. This will help to identify the exogenous and institutional factors, apart from the gender-specific ones, that inhibit the proper functioning of panchayat institutions. These span a vast range from the multiple inequalities and forms of social discrimination that are embedded in rural society to the lacunae in the structuring of panchayat institutions.

## 7.1 Backdrop of Legislation

### *Scenario Preceding the 73<sup>rd</sup> Amendment*

It is worth remembering that, even before the 73<sup>rd</sup> Amendment, women in Karnataka, Andhra Pradesh and Maharashtra had, since the 1970s, been contesting elections, occupying reserved positions and participating in panchayats.

Indeed, the oldest known all-women panchayat was that which held office between 1963-68 in Nimbut village in Pune district of Maharashtra. It was observed, for instance, that the representation of women had resulted in a greater priority for issues such as drinking water supply and the installation of pumps; the construction of wells, playgrounds, roads, public toilets and other community infrastructure; the closure of liquor vends; more effective control over schools; and even the transfer of land from men to their wives.

The all-women panchayats were not, of course, legislated. They simply emerged, either because women took the initiative, or because men in factionally divided villages could not agree with each other. In Maharashtra, they also emerged when dominant rural interests like sugar barons wanted puppet panchayats they could control, or because of the Shetkari Sangathan's programmatic commitment to encourage rural women to enter politics. Generally, such panchayats came to power without an election, simply because there was no opposing panel. Of course, they frequently reflected the local caste and class structures, with most women sarpanches belonging to families of the rural political elite.

A study of the all-women panchayats of Maharashtra (Datta 1998) concluded that such panchayats gave expression and importance to local needs, by addressing issues like water scarcity, or schoolrooms. It also found that women used informal and often innovative methods of getting their way. For example, the sarpanch of Bitargaon drew the attention of a visiting MLA to the acute water scarcity in the village by telling him that they could not offer him tea. Similarly, in Vitner, the panchayat instructed the women to let their cattle loose on 52 acres of common property land that had been encroached upon. The reclaimed land was then turned into a community orchard, the proceeds of which augment the panchayat's resources.

The barriers cited, in this study, to the effective participation of women, are not very different from those in other States: patriarchy, illiteracy, lack of information, bureaucracy, lack of financial powers, and so on. Similarly, the positive contribution of these panchayats (dissolved in 1994) in terms of the empowerment of women also suggest a picture broadly similar to that emerging from some post-Amendment studies: enhanced social recognition and respect; a feeling of

*A study of the all-women panchayats of Maharashtra concluded that such panchayats gave expression and importance to local needs, by addressing issues like water scarcity, or schoolrooms*

self-confidence; greater mobility, awareness and knowledge; and, in some cases, even enhanced status within the family (Datta, 1998).

The quality of women's participation in actual processes of decision-making may have been less than satisfactory, but this is, as we shall argue, only one measure of empowerment. The adoption of a wider perspective in terms of gender needs and interests, as well as the rather ephemeral nature of the notion of empowerment, deserves special consideration, and is remarked upon subsequently.

### ***Scenario After the 73<sup>rd</sup> Amendment***

The participation of women's representatives in the panchayats elected after the 73<sup>rd</sup> Amendment may therefore be evaluated by first examining the evidence of their awareness of panchayati raj institutions and their formal engagement with panchayat processes, such as attending and taking part in meetings.

Several studies have surveyed these aspects in the different States. Next, we will examine the specific obstacles and handicaps faced by women which appear to them to hamper their participation. These span a wide range - from the routine exclusion from effective decision-making to physical violence against women representatives. There are also structural obstacles relating to the design of panchayati raj institutions, such as the role of the bureaucracy or the provisions for no-confidence motions or the two-child norm. Another type of structural limitation is that relating to the local structures of dominance - including patriarchy, caste and class - issuing in exclusion, tokenism and surrogate representation. Despite these obstacles, most women surveyed report a positive enhancement of status within the family and the community, and a heightened commitment to literacy, especially for the girl child. Though the new panchayati raj institutions were not specifically designed with this objective in mind, these are surely among their most heartening achievements.

## **7.2 Women and Elections to the New Panchayats**

Madhya Pradesh was the first State to conduct and complete elections to all three tiers in May-June 1994. Between 1994 and 1995, several other States - including Tripura, Punjab, Haryana, Rajasthan and Uttar Pradesh - conducted elections under the new acts, though the lowest tier was excluded in Punjab. In Orissa, West Bengal and Karnataka, the terms of existing panchayats had not yet expired. The Karnataka Conformity Act was passed in May 1993, followed by Gram Panchayat elections in December of the same year. Three States - viz., Orissa, West Bengal and Maharashtra - conducted elections, with 33 per cent reservation for women, after the Amendment, but before the State conformity acts were enacted. Himachal Pradesh and Punjab, by contrast, held elections after the Amendment, and before the conformity Acts were passed, but without reservation for women.

The panchayat elections across the country brought over 700,000 women to panchayati raj institutions at all three levels. The statistics (Kaushik 1998) show that, with the exception of a few States, most have met - and some have even exceeded - the one-third quota for women's reservation at the Gram Panchayat Level. The States which have failed to meet the quota include Assam and Punjab (where only 30 per cent of women were elected to the Gram Panchayats); Sikkim (1.48 per cent); undivided Uttar Pradesh (25.55 per cent), and Chandigarh (20.18 per cent). Karnataka has 43.79 per cent women representatives at the Gram Panchayat level, which not only exceeds the requisite quota but is also the highest among all States. The other States, which substantially exceed the 33 per cent quota, include Goa, Kerala, Manipur, West Bengal and Daman and Diu.

*Most women surveyed report a positive enhancement of status within the family and the community, and a heightened commitment to literacy, especially for the girl child*

At the Panchayat Samiti level, Assam, Punjab and undivided Uttar Pradesh fall below the quota, while Karnataka (with 40 percent women representatives) again exceeds it. At the Zila Parishad level, again, Uttar Pradesh (at 25.40 percent) remains the major defaulter, apart from States like Sikkim and Union Territories like Chandigarh and Dadra and Nagar Haveli.

The statistics for women chairpersons at the various levels of Panchayati Raj (Kaushik 1998) show that only Karnataka, Maharashtra, Orissa and Tamil Nadu meet the quota at all three tiers. West Bengal's record in this respect is a surprisingly low 4.62 percent at the third tier, 3.00 percent at the middle tier, and nil at the top tier.

State Election Commission data pertaining to Madhya Pradesh and Rajasthan have shown that less than 1 per cent of seats in panchayats remained vacant, and that these were not limited to positions reserved for women. In Madhya Pradesh, many of these seats fall in districts with a substantial tribal population. A study of approximately 850 women representatives, across three States, shows that 49.5 percent women were elected without a contest. Most of these were at the level of the gram panchayat and, at all levels, there were more such unopposed elections for members rather than chairpersons of panchayats. In Madhya Pradesh, women have even been elected to seats which were not reserved for them. (CWDS, 1999) A study of two districts in Tamil Nadu, which surveyed 100 women members, found that 88 of them had won from constituencies reserved for women, and 7 from constituencies reserved for the Scheduled Castes, though open to both men and women. (Athreya et al., 1998) Similarly, a study of Angul district in Orissa also showed that 33 out of 53 ward-members were elected unopposed, and two were elected from unreserved constituencies. (ISED, 1998)

### **7.3 Women Representatives : Social and Economic Characteristics**

In this section, we compare the findings of two studies, which only partly overlap in their choice of States, though not at all in their choice of districts within those States. The first of these (CWDS 1999) compares Madhya Pradesh, Rajasthan and Uttar Pradesh, with a sample of 843 women, fairly evenly divided between the three States. Of this sample, 200 women are chairpersons of panchayats, while the remaining 643 are members of panchayats at all three levels. The other study (Kaushik 1998) is based upon a survey of 600 women representatives in six State-level studies – of Tamil Nadu, Haryana, Madhya Pradesh, Orissa, Rajasthan and the then Uttarakhand region of Uttar Pradesh - have also been collated in an overall report. (Kaushik, 1998)

#### ***Literacy Levels***

The majority of women entering the new panchayati raj institutions are illiterate or barely literate. Kaushik's study confirms this finding for Haryana, Madhya Pradesh and Rajasthan, where 25 percent of the elected women surveyed were unable to read and write. However, Kaushik's study shows that in Tamil Nadu, Orissa and the Garhwal region of U.P., there are very few illiterate women representatives.<sup>3</sup> In these States, 23 percent women are educated upto the primary school level, while 9.5 percent are college educated.

#### ***Income and Occupation***

The Kaushik study does not provide data on income or landholding, but it is heartening to find that 40 percent of the women representatives surveyed in the CWDS study belong to families with incomes that place them below the poverty line. 14.2 percent of them are landless, 19.5 percent have marginal holdings, and 20.6 percent have small holdings. Only 33 percent of all those surveyed had an annual income over Rs. 20,000. The reporting

*40 percent of the women representatives surveyed belong to families with incomes that place them below the poverty line*

<sup>3</sup> This is accounted for by distinct reasons in each case. The districts chosen in Tamil Nadu were those which had had fairly successful mass literacy campaigns (Athreya, 1998:2) Female literacy in the Garhwal region of Uttar Pradesh is higher than the State average. In Orissa, the amended Gram Panchayat Act makes literacy mandatory for the representatives. (Panda, 1996:726)

*The study conducted by the Centre for Women's Development Studies contradicts the common assumption that the women representatives would belong to locally influential families with political connections*

of occupational background in the two studies is also not vastly dissimilar : the Kaushik study reports that 50 percent of the women representatives are cultivators, while 40 percent describe themselves as housewives (which includes support to the dominant household occupation, whether it is agriculture or business). The CWDS study also reports 37.2 percent women as housewives and 38.3 percent as cultivators, with 10.2 percent being cultivators and labourers. Following from these data, the caste profile of women representatives is not surprising. According to the CWDS study, the highest percentage, in terms of caste, among both members and chairpersons is that of OBCs (28.9 percent and 30.3 percent respectively). The Kaushik study also shows that women representatives from Madhya Pradesh, Rajasthan and Tamil Nadu were mostly from the OBCs. However, in the upper caste-dominated hill region of U.P. and in Haryana (where Yadavs are closer to the high castes), most women representatives belong to the upper castes. A district-level study of Karnataka also showed the predominance of the landowning upper castes, the Vokkaligas. (Vidya, 1997) Similar findings are reported from a study of Orissa, where 66 percent of the elected women members in the State are from the Karan and Khandayat castes, and the percentage of scheduled castes and tribes among the upa-sarpanches is lower than that of other castes. It is only in ward membership that the lower castes are found to dominate. (Srinivas,1998:124-5)

### **Age**

As regards the age profile, the Kaushik study shows that 74 percent belonged to the 20-40 years age group, while in the CWDS study 69 percent were below 45 years of age. Thus, both studies found a marked contrast to the pre-Amendment panchayats, in which older women, free of their child-bearing and domestic responsibilities predominated. Both

studies also found that an overwhelming percentage (over 90 percent) of women representatives was married. The data relating to age are corroborated by evidence from Bangalore Rural District in Karnataka (Vidya, 1997) and Karnal district of Haryana. (MARG,1998:38-39)

### **Family Background**

The CWDS study - especially the part of it relating to Madhya Pradesh – contradicts the common assumption that the women representatives would belong to locally influential families with political connections. The Kaushik study, too, found that only 30 percent of the women interviewed came from politically connected families. Many others however had a history of involvement with Mahila Mandals, and this was especially true of the women in Garhwal (U.P.), Tamil Nadu and Madhya Pradesh. This study also found that political families played a greater role at the upper two tiers.

### **Previous Experience**

The CWDS study also shows that the majority of women elected to the panchayats in Madhya Pradesh, Rajasthan and Uttar Pradesh are first-timers, with only 3 percent having any previous experience of participation in panchayats. Only 20 percent reported membership of a political party, with an equal proportion reporting the political affiliations of their natal or affinal families.<sup>4</sup> It is clear that the prior level of political engagement among these women is very low. The MARG study in Haryana also shows that, for 50 percent of the respondents, this was their very first exposure to political activity, as neither they nor other members of their families had any previous experience of political engagement. Again, however, there are a few women who have been active in the campaign for prohibition or in the women's wing of national political parties.

<sup>4</sup> 6.3 percent reported that their natal families, and 14.9 percent reported that their affinal families, had political affiliations. These findings provide a sharp contrast to male representatives in these three States, 20 percent of whom in Madhya Pradesh and Uttar Pradesh and 32 percent in Rajasthan, had previous experience of panchayats. The proportion of those politically affiliated is also much higher: 53 percent in Rajasthan, and 30 percent in Madhya Pradesh. (CWDS, 1999:88)

It is interesting to observe the regional variations in this respect. High levels of political affiliation are reported from States like Tamil Nadu, where 62 percent of women panchayat members in two districts claimed involvement in party enrolment, addressing public meetings and collecting funds. (Athreya, 1998:17-18) In the study of Madhya Pradesh, Uttar Pradesh and Rajasthan, dalit and tribal women are seen to consistently report higher levels of political affiliation. (CWDS, 1999:89) In Garhwal - atypically for Uttar Pradesh as a whole - we find considerable evidence of a prior engagement in the Mahila Mangal Dal, though virtually none of political affiliation or activity. (Verma, 1998:54-55)

#### 7.4 Why Women Contest

Studies of women's participation in the PRIs have shown that a variety of factors lead women to contest in such elections. The first and most obvious factor is, of course, the mandatory provision for reservation, in the absence of which few women - except in a handful of States like Karnataka and Maharashtra - had considered, or were likely to consider, contesting an election. The provision for reservation made women's representation possible because it compelled the men in the community to take the initiative in persuading the women in their families to contest, whether to keep the seat in the family till the rotational system caused the reservation to lapse, or to retain their control over panchayat resources.

A study of women representatives in Karnal district, Haryana documents pressure and/or support from family and community as being the main reason for contesting. The only exception - a woman who took her own decision to contest for the Panchayat Samiti election - was subjected to verbal and physical abuse from her husband and family. Here, as elsewhere, the election campaign is largely organised and run by the men, with the women canvassing mainly among the women of their

constituency, leaving the task of mobilising male votes to their husbands and other male relatives. In sharp contrast to this is the picture emerging from a study of two districts in the Garhwal region of Uttar Pradesh where, of the hundred women representatives surveyed, as many as 30 reported that it was their own decision to contest. Others cited husbands, family, and village community, while some were asked to contest by the Mahila Mangal Dal.

#### 7.5 Women's Awareness of Panchayati Raj

Of all the available studies that have examined this issue, we may contrast the experience of Karnataka, the State which appears to have the highest levels of awareness with that of Haryana, which probably ranks among the lowest in this respect. The Karnataka study reports that 19.35 percent of the respondents knew about the panchayati raj legislation in detail, while the remaining were aware of its

*The provision for reservation made women's representation possible because it compelled the men in the community to take the initiative in persuading the women in their families to contest*

#### BOX 6

##### 'Who Will Make the Chapatis?'

This argument (Datta, 1998) is rarely encountered in the post-Amendment narratives of panchayati raj. Instead, we frequently find household responsibilities being assumed - mainly by other women in the household, such as mothers-in-law or unmarried sisters-in-law - to allow women members of the panchayat to be free of their domestic commitments.

There are, of course, multifarious constraints within the home. These include the 'who will make the chapatis?' and 'who will look after the children?' arguments, but are found to be more weakly articulated after reservations than they were before. This is clearly because an independent initiative by a woman to contest elections is perceived as more threatening by men, whereas a man's initiative on behalf of his wife or mother for a reserved seat is seen - in terms of social acceptability - as par for the course, a

sort of surrogate election. This is probably why some studies (such as CWDS, 1999) report more co-operative arrangements within the home, with domestic responsibilities being more cheerfully shared. But travelling long distances to attend panchayat meetings is still perceived as something women cannot do unescorted. Hence, it is not unusual to find women members being accompanied by husbands or other male relatives. This occurs, of course, where the latter are not actually attending the meetings in place of the woman, an action which carries its own legitimacy in many parts. CWDS study found that while more than 75 percent of the women representatives in Uttar Pradesh are escorted, in Madhya Pradesh and Rajasthan the corresponding figures are 30.7 percent and 39.4 percent respectively.

*In general, data reveals a high level of awareness about reservations, but low levels of awareness about the powers and responsibilities of panchayats*

contents in general terms.<sup>5</sup> By contrast, the Haryana study shows that the knowledge of women's representatives about panchayati raj institutions was limited to their traditional functions only, and they were unaware of the new Haryana Panchayati Raj Act and the functions assigned to panchayats under it. They were also found to be completely ignorant of the procedural aspects of welfare schemes, and the financial powers of panchayat bodies. (MARG, 1998:87-90)

The CWDS study, however, shows that the levels of awareness about panchayat-related matters *do not vary significantly according to gender*. Thus, if 18.7 percent female members and chairpersons of panchayats report no knowledge about panchayat matters, so do 16.2 percent of their male colleagues. (CWDS, 1999:99) Indeed, on the financial resources of panchayats, there is no response from an equal proportion of men and women members. In general, CWDS data reveals a high level of awareness about reservations, but low levels of awareness about the powers and responsibilities of panchayats. Indeed, the distinction between powers, functions and duties was found to be blurred, as the respondents listed, under panchayat powers and functions, road construction, water supply and land revenue collection. Unsurprisingly, CWDS also found literacy and education to be correlated with higher levels of awareness. Thus, of the three States studied, it is Uttar Pradesh which manifests lower levels of awareness than the other two.

The positive correlation between literacy and education, on the one hand, and awareness, on the other, is reinforced by data from Tamil Nadu and the Garhwal region of Uttar Pradesh. In both these regions, we find better literacy indicators, as well as higher levels of awareness about the basics of the new panchayati raj system. In fact, the lack of knowledge generally pertains to aspects which most ordinary citizens would need to be

informed about. In Tamil Nadu, women in panchayats are seen to take a keen interest in panchayat finances, though they report some confusion about the relationship between the three tiers. (Athreya, 1998:22) In Garhwal, Uttar Pradesh, similarly, women representatives are aware of the new panchayati raj system, and affirm the value of reservation, though there are a few who believe it is meaningless in the absence of real devolution of powers. (Verma, 1998:38) Again, the lack of knowledge mostly pertains to finances, budgeting and accounting.

Kaushik's study brings to the fore an important, but largely neglected, aspect of this issue: awareness among women representatives about the Gram Sabhas, their powers and functions. In the six States surveyed by this study, Tamil Nadu and Orissa manifest the greatest ignorance about the Gram Sabha. In Orissa, in fact, even most sarpanches of the Gram Panchayats and Panchayat Samitis are not aware of the role that the Gram Sabha is expected to play. (Kaushik, 1998:30) This ignorance about the foundation of the entire pyramidal structure of local democracy is surely a matter of concern. It also perhaps serves to explain the fact that while the Gram Sabha is ostensibly the most important unit in the entire structure of the new panchayati raj institutions, it is nowhere effective as an instrument of direct democracy, and records a fairly low presence of women. Proposals such as the introduction of a sub-quorum for women are administrative solutions, rather than political ones, and are therefore unlikely to create a genuinely participatory climate.

### **Modes of Participation**

#### *Attendance at Meetings*

From noting the varying levels of awareness, among women representatives, about the powers and functions of the panchayat bodies, we proceed to a consideration of the various indices of women's participation that have been

<sup>5</sup> This may partly be accounted for by the fact that Karnataka has a long history of reservation for, and participation by, women in panchayats. Indeed, the study cited covers panchayats elected prior to the Amendment, in the period 1987-92. (Vidya, 1997)

surveyed. The CWDS study constructs a comprehensive index of participation that includes: attendance at panchayat meetings; efforts to carry one's viewpoint in such meetings; weekly time devoted to panchayat work; petitions and problems received and attended to; and efforts to overcome difficulties that are encountered. The survey of Madhya Pradesh, Rajasthan and Uttar Pradesh found that 65.5 percent of women representatives regularly attend panchayat meetings, with attendance being higher among chairpersons, and lower among members, especially in U.P. The reasons for failure to attend generally pertain to domestic work or livelihood concerns, with smaller numbers citing the inconvenience of distance or seclusion as the reason for non-attendance.

The results of other studies are not vastly dissimilar. Kaushik's six-State study, for instance, shows that elected women are fairly regular in attending meetings, and that the phenomenon of proxy attendance – by husbands or other male relatives – is actually on the decline. (Kaushik, 1998:28) The Tamil Nadu study shows that 70 percent of the respondents have attended all the meetings and all but one have attended with a fair degree of regularity. The presence of male escorts to accompany women to meetings is generally ascribed to distance, poor public transport facilities, and meetings that do not always end before night-fall. (Athreya, 1998:21) In Garhwal, not only do women attend meetings regularly, they also go largely unaccompanied. The evidence from Karnataka – though it relates to the period 1987-92 – confirms this trend. As on several other counts, the evidence from Haryana is discouraging, with only 13 of the 128 women representatives surveyed by the MARG study having attended all meetings. (1998:110)

Information about meetings is frequently not even properly communicated. Here again, the variations between States are considerable. In Madhya Pradesh, for instance, information

about meetings is fairly regularly communicated, but agenda papers are not. In many States, the dates of the meetings are statutorily fixed. But, as the Haryana study shows, though the dates of the meetings are supposed to be fixed, the schedule is generally not followed and meetings are held as and when the Sarpanch or the Village Secretary deem it necessary. Information about the meeting is sent through the village chowkidar, usually to the husband/son of the woman representative. If there are factional divisions within the village, such information may simply be withheld. Even if the date of the meeting is communicated, it may be postponed for lack of quorum. Such unpredictability is naturally irksome, especially to those who have to miss a day's livelihood for this purpose. Political differences can also influence this aspect, especially at the two higher levels. In Garhwal, for example, one Kshetra Panchayat (middle tier) member complained that the pramukh – who belongs to the rival political party – tampers with the post so that she does not receive the letter notifying the meeting in time. (Verma, 1998:40)

#### *Participation in Panchayat Proceedings*

As different studies use different measures of participation, the available data does not support precise inter-State comparisons on this issue. It can, however, be used to create a mosaic encompassing various dimensions of participation. Thus, women representatives – especially chairpersons of panchayats - in Madhya Pradesh apparently seek to gain support for their viewpoint through a variety of methods, both formal and informal. They lobby with fellow-members outside the panchayat, enlist the support of their husbands, and sometimes even boycott meetings. (CWDS, 1999:105-06) In Uttar Pradesh, however, almost 60 percent of women representatives devote no time at all to panchayat-related work; and only 27 percent of women representatives in

*Women representatives – especially chairpersons of panchayats - in Madhya Pradesh apparently seek to gain support for their viewpoint through a variety of methods, both formal and informal*

Madhya Pradesh, Uttar Pradesh and Rajasthan (taken together) devote more than 3 hours weekly to such work. (ibid.)

There are also important regional variations on the petitions received, and attended to, by women representatives. The three-State CWDS study records that about a quarter of the petitions received by these women relate to family conflict, and approximately half to issues such as land disputes, land distribution, employment and assistance with basic needs. In terms of receiving and attending to such petitions, 63.6 percent of the women representatives surveyed in Madhya Pradesh acknowledged receiving petitions, but only 49.8 percent reported having attended to them. In Uttar Pradesh, by contrast, only 19 percent women representatives reported receiving petitions, and a meagre 15.6 percent reported attending to them. In both these States, it appears that women belonging to the scheduled castes and scheduled tribes receive most petitions from their own groups, though such petitioners also appeal to representatives of other castes for help. OBCs and upper caste persons, however, tend to go to people of their own castes, and much less to members of the scheduled castes and tribes. (CWDS, 1999:107-8) It is notable that one-third of the women reported taking the help of their husbands to resolve the problems presented to them, while another third reported taking the help of government officials attached to various government programmes and schemes.

The six-State study co-ordinated by Kaushik measures participation in slightly different terms. The evidence from Tamil Nadu, for example, compares types of participation in terms of participating in discussions, in which the women members are most active; speaking in community meetings and putting forward suggestions, in which they are reasonably active; and casting a vote in meetings

which is a small proportion, possibly because not all decisions are subjected to a formal vote. (Athreya, 1998:22) In Orissa, on the other hand, some members of the Gram Panchayat and Panchayat Samiti expressed hesitation in speaking at meetings, while others, who had fewer inhibitions in communicating, nevertheless felt that their suggestions were not seriously heard or considered. (ISED, 1998:19-21)

The Karnataka study records greater participation at the Zila Parishad level than at the Mandal Panchayat, partly because women members of the Zila Parishad are in any case better educated. Only one scheduled caste member of the Zila Parishad attended all meetings but never spoke at any. (Vidya, 1997) This is an important dimension of participation, because women belonging to the scheduled castes and scheduled tribes are – virtually across all States – seen to be singularly disprivileged in such forms of participation. This is reflected even in the physical organisation of the panchayat space. In many gram panchayats, the women members tend to sit separately from their male colleagues, though in others men and women have gradually begun to sit in a mixed fashion. Even in Karnataka, women in Mandal Panchayats are made to sit in one corner of the room, either behind the men or to one side. However, at the Zila Parishad, men and women interact more freely. Even if gender equations are, in this superficial sense, changing, caste equations remain more deeply entrenched. In a Haryana Gram Panchayat, for instance, a scheduled caste chairperson was found sitting on the floor with the caste members sitting on a charpoy at a higher level. In many Gram Panchayats, women belonging to the higher castes refuse to eat with scheduled caste women, though sometimes the caste objection is sought to be disguised by excuses such as that the individual is not feeling very hungry!

*About a quarter of the petitions received by these women relate to family conflict, and approximately half to issues such as land disputes, land distribution, employment and assistance with basic needs*

### *Participation in Committees*

An important aspect of women's participation in the proceedings of the panchayats is their role in committees. Most panchayats have several committees, but there is no provision for a quota-based representation of women on panchayat committees. This remains a serious lacuna because it provides a convenient handle for excluding and marginalising women members. The Kaushik study shows that women are largely ignorant about the existence of committees, and are mostly excluded from developmental committees. Of the total number of 600 women representatives surveyed in six States, 61 reported no knowledge of committees, and another 134 were not members of any committee. 65 women were members of the Health Committee, and a mere 16 of the Women and Child Development Committee (Anganwadi Committee).

### *Participation in Panchayat Activities*

The chief concerns of women in panchayats are similar to those noted in the earlier experience of all-women panchayats in Maharashtra. Most surveys project the intentions of women representatives, rather than documenting their actual achievements so far. One study of 16 Gram Panchayats in Ganjam district of Orissa claims that the non-political background of the women panches and sarpanches surveyed was an asset in arriving at unbiased decisions on community matters such as the construction of a community hall, the selection of beneficiaries under the widow allowance scheme, water supply and work under the Jawahar Rozgar Yojana. (Panda, 1996:727) A very different picture emerges from another Orissa study of 49 Gram Panchayats, 4 Panchayat Samitis and one Zila Parishad in Angul district. This suggests variations (a) between the three tiers, with greater involvement as we go to the higher levels, and (b) between members and chairpersons. Thus, sarpanches at all three levels were confident

of undertaking useful developmental activity, while members were less so. (ISED, 1998: Chapter IV)

The evidence from the Garhwal region is more positive, with many Gram Panchayat members involved in work related to literacy, health, roads, tanks, pensions, and forest conservation. For some, the establishment of income-generating schemes and small-scale industries for women is also an important objective. At the middle tier, members reported involvement in water, electricity, schools and roads, though the majority of Kshetriya Panchayat members complained of their lack of power and the failure of Gram Pradhans to consult them.

The CWDS study also records that women attempt to address the more vital needs of women. As such, they work on schemes for bringing piped water into the village; inspect development works and nutrition centres under the ICDS; and pay particular attention to children's education. They also take the initiative in a variety of family and matrimonial matters, from counselling abusive or alcoholic husbands to settling land disputes. (CWDS, 1999: 137) In West Bengal, Kamala Mahato, the panchayat pradhan of Bandoan in Purulia district, numbers first among their achievements the 10 wells that she has had dug for drinking water as well as irrigation, and the income-generating schemes for women under the Integrated Rural Development Programme. (Panchayat Update, April 1998)

### **Gender Exclusion**

Exclusion takes many forms, and is effected in a variety of ways. For purposes of this analysis, we consider the several modes of exclusion under two broad categories :

- social constraints
- institutional constraints

*Women attempt to address the more vital needs of women. As such, they work on schemes for bringing piped water into the village; inspect development works and nutrition centres under the Integrated Child Development Scheme; and pay particular attention to children's education*

*Social constraints vary considerably depending on the nature of local society, rather than on State boundaries*

*Social constraints* include the patriarchal ordering of society which includes commonly observed phenomena of tokenism and surrogate representation. They also include illiteracy which makes it well-nigh impossible for women to participate in processes of decision-making that are heavily dependent on the written word and the legalese of agenda, minutes and signatures. Caste is also a form of social constraint, insofar as it mandates seclusion or places women belonging to lower caste or scheduled caste groups at the twin mercies of patriarchy and caste position. Social constraints vary considerably depending on the nature of local society, rather than on State boundaries. Where structures of patriarchy and caste are more oppressive, the empowerment of women through panchayati raj institutions faces formidable obstacles. Where, on the other hand, caste structures are relatively less oppressive and patriarchy is weaker due to male migration or social mores, the participation of women in panchayat institutions is less constricted.

One of the most extreme forms that social constraints take is the physical violence to which women and lower caste/scheduled caste representatives alike have been subjected. This coercive mechanism of exclusion is more serious than the simple disfranchisement that issues from illiteracy or patriarchal values that are enforced or internalised. By contrast, physical violence represents direct intimidation and coercion against women and other disprivileged social groups, intended to threaten them into withdrawal.

*Institutional constraints* include provisions such as the two-child norm which debars women with more than two children from membership of panchayats in some States. It also includes the provision for no-confidence motions, which are frequently invoked to subvert the purpose of reservations by removing duly elected women pradhans and replacing them by male upa-pradhans. The more fundamen-

tal institutional constraints affect equally both male and female members and chairpersons of panchayats. These include: the inadequate devolution of powers, and of financial powers in particular, in many States; the lack of specification about the relationship between the three tiers; and the relationship between the bureaucracy and the elected representatives. Institutional constraints vary across States, depending mostly on the provisions of the conformity acts, but also on the administrative and political climate, and the organisational norms and values that characterise it.

Finally, we shall examine some of the positive trends that are discernible despite the multiple constraints operating on the effective participation of women. These signposts will help us to identify the transition to empowerment that is, slowly but quite unmistakably, taking place through the representation of women in panchayat institutions.

#### *Social Constraints*

“The Unimportance of Being Woman”:

It is neither surprising nor uncommon to find most surveys reporting a lack of confidence among women representatives in panchayats. Seclusion behind the veil (purdah) is clearly a cultural practice that inhibits participation<sup>6</sup>. Even though 42 percent of CWDS’s respondents said they observed purdah in panchayat meetings, 7.4 percent said they had given up the practice of observing purdah after entering the panchayats. In Rajasthan, 12.3 percent of the women representatives had discarded the veil, while only 3.2 percent in Uttar Pradesh reported such a change. In Bilaspur district of Madhya Pradesh, a three-day training camp for panches and sarpanches spent a whole day discussing the veil, particularly encouraging men to recognise their ‘mental veils’, which made them keep their wives behind a physical veil.

<sup>6</sup> There are marked regional variations in this respect also. CWDS’s three-State study, for example, found that only 8 percent of women representatives reported the veil (or ‘ghunghat’) as a constraint. This figure is an average of widely varying State percentages: thus, 2 percent of Uttar Pradesh respondents, 8.5 percent of Madhya Pradesh respondents and 13.4 percent of Rajasthan respondents reported the veil as a constraint.

Despite their own reticence - stemming from the internalisation of generations of gender bias – there are many women who observe and remark upon the manifest discrimination against them in panchayats. Among these, they cite: the attempt by elected male colleagues to dominate; the inattention to suggestions and opinions put forth by women; and the negative attitude of male officials. As mentioned earlier, social custom often dictates that the women sit separately (with each other) and do not speak in the presence of men. This aspect is, however, gradually undergoing a change in many regions as women get accustomed to sitting and even speaking in the presence of men.

The MARG study of a district in Haryana brought forth, from a scheduled caste woman member of the Panchayat Samiti, the suggestion that there should be a room where women can meet and sit together. Another suggested that there should be some meetings of only the women members of the panchayat where they can freely discuss certain issues, arrive at a consensus, and then place this before the entire panchayat. (MARG, 1998:183) This clearly shows that women hesitate to participate as individuals, but that their desire to participate and have their voice heard is nevertheless strong. Therefore, the mechanism they suggest is one through which they can have the satisfaction of expressing their opinions, possibly even having these carried, and placed before the whole panchayat as the now-weightier collective view of all the women members. They are, it appears, often deterred by the infighting among the men, and their use of intemperate language, as also by the absence of trust and the consequent inability to arrive at a consensus or a decision.

#### *Tokenism and Surrogate Representation*

The exclusion of women representatives from effective decision-making in panchayat institutions has been repeatedly documented. In-

deed, several studies have concluded that the attempt to empower women through quota-based representation has issued in, at best, tokenism. There is indeed plenty of evidence of surrogate or proxy representation by husbands and other male relatives who not only canvass for their women, but also receive notices of and attend meetings in their place. One husband in Alwar, Rajasthan not only canvassed for his wife's election, but also had the banners printed with *his* name on them. Husbands of women pradhans are all too frequently referred to as the pradhan, as they assume the authority of the pradhan and discharge the functions of the office. Given the patriarchal ordering of Indian society, it is not astonishing that instances of surrogate representation are found all over the country. It is, however, important to note that while there are regions where this phenomenon is particularly strong, there are also regions where it is weak. It is important to not lose sight of regional differentiation in social structure, including the structures of patriarchy, in order to avoid the rather rash general conclusion that women's empowerment under the new panchayati raj system is a complete and hopeless failure.

Studies of western Uttar Pradesh provide some of the more depressing evidence of surrogate representation. In an early survey of 100 members in 7 panchayat bodies in Shahpur block of Muzaffarnagar district, G.K. Lieten (1996a) argued that though the 1995 elections have brought about a numerical preponderance of agricultural labourers and small peasants, the new panchayats continue to function rather like the earlier ones: with large numbers of nominal or 'namesake'<sup>7</sup> members, extensive corruption in development works, rigging of elections through the 'capture' of polling booths, and an agenda that is devoid of social concerns because it reflects only the interests of the dominant local elite, represented by the pradhan. While the earlier panchayats

*Despite their own reticence - stemming from the internalisation of generations of gender bias – there are many women who observe and remark upon the manifest discrimination against them in panchayats*

<sup>7</sup>The term 'namesake' refers not to someone bearing the same name, but is a literal translation of a Hindi phrase meaning 'in name only'. It is used to denote membership in name only, rather than in substance.

usually had one female member nominated by the pradhan, she was never asked to attend meetings or involve herself with any public work.

Some of the women even did not know that they were a member. Once or twice the pradhan had dispatched a document for signing, but they did not know what it was for. Without being derogatory towards women in general, the impression is that *women stand a better chance of becoming a member of the panchayat if they are illiterate, frail of body and of mind and rather old*. The women who at least knew that they were panchayat members very rarely went to the meetings. If they did, then they only did so in order to put their thumb impression or to sign and then came back. The usual procedure, however, is for the pradhan to send the document to be signed to their house.

*This procedure, as a matter of fact, applies not only to the women, but to most of the male members as well. (emphases added) (Lieten, 1996b)*

This leads Lieten to affirm Ambedkar's cynicism about panchayats. They are, he concludes, inappropriate instruments of rural development or of transforming landed power relations. (ibid.:2705) A recent study by Sudha Pai provides a more nuanced understanding of the phenomenon of surrogate representation, though her survey of three villages in the green revolution area of Daurala block in Meerut district echoes Lieten's in some respects. Like Lieten, she records the changed social composition of the new panchayats, with their predominance of lower castes and shows that the pradhanis who have been elected to the panchayats after 1995 are 'namesake' members. Their perception of the panchayat as a government organisation does not encourage them to see their participation as necessary. Indeed, Pai found that "interviewing them for understanding the working of the panchayat was of little use as they are ignorant of local affairs". (Pai,1998:1009) In each of Pai's

villages, the 1995 election brought a dalit woman to the post of pradhan. Since these are also Ambedkar villages, their grants for development schemes were doubled for a two-year period, and channelised through the panchayat. This has enabled a great deal of developmental work to take place, and vested the pradhans with tremendous powers of patronage. However, Pai found that it is the husbands of the pradhanis – locally described as the pradhans – who take all the decisions.

Yet, the mere fact of having been elected to the post of pradhan has provoked the realisation, among these women, of the need to acquire an education or at least literacy skills. Inspired by the example of Mayawati, the dalit woman who became Chief Minister of Uttar Pradesh, they are keen that the girls in the village attend school regularly. This phenomenon of what may be called *proto-empowerment* deserves to be taken seriously.

The Government of Uttar Pradesh has issued orders intended to help women gram pradhans to keep their husbands from interfering in their work. Husbands, according to this order, will *not be allowed* to enter their wives' offices (except for urgent work or to take part in meetings of the village panchayat); to accept memoranda from villagers; and to travel in official vehicles. (Panchayati Raj Update, October 1998)

#### *Lack of Literacy*

A recent survey has revealed that 40 percent of the 20,000 women gram pradhans in the State of Uttar Pradesh are illiterate. The responses of the women representatives surveyed across several States show that these women themselves perceive the absence of reading and writing skills as a major handicap, which hampers their effective participation in panchayat institutions. Without exception, every single piece of survey research on this question cites the recognition of women

*The mere fact of having been elected to the post of pradhan has provoked the realisation, among these women, of the need to acquire an education or at least literacy skills*

representatives that they would have been better able to contribute to the proceedings and activities of the panchayats had they had the advantage of schooling. The sarpanch is provided with a secretary, whose performance she has no authority to check. Alternatively, sarpanches appoint a secretary at a monthly salary of Rs. 500 (which is equivalent to ten days' wages for unskilled labour), who can hardly provide administrative support even for tasks like book-keeping.

In Haryana, the women ask for education and training so that they would be better equipped to approach police and government officials with their problems. They also ask for greater knowledge about the law on panchayati raj. (MARG, 1998:181) In Rajasthan, close to 12 percent of the women link their ineffectiveness to illiteracy. (CWDS, 1999:124), while in Tamil Nadu, even women who hold a bachelor's degree feel that they are not taken seriously unless they have the backing of a powerful male. In particular, there is a widespread feeling that, even more than their male colleagues, it is officials who are dismissive of them. As one panchayat president in Tamil Nadu observed, "Officials are especially indifferent towards women representatives, but they respond immediately to male representatives." (Athreya, 1998:23)

A member of a Janapad panchayat in Chhatarpur, Madhya Pradesh notes that women members are simply told to collect their travel and daily allowances and leave. The resolutions are not read out -even on the request of a member who is illiterate - and they are simply asked to append their signature. This can be particularly difficult if accounts are involved. The members invariably want a commission on the development work sanctioned, and ask that the sarpanch falsify the accounts accordingly. They also ask her to give below-poverty-line certification to ineligible persons. If the sarpanch happens to be a dalit or tribal woman, she can scarcely refuse to yield

to such pressures, because the dominant castes and landholding groups manage to prevail.

There are, however, heartening examples like the following. Ganga Devi Rawat, sarpanch of Khawada in the Bhilangana block of Tehri Garhwal district in Uttar Pradesh, is high-school educated. She was asked by her relatives to sign on a set of suspect accounts, she refused to do so on the grounds that she was not convinced of their veracity. Despite pressure from the extended family, she steadfastly refused because, as she put it, "this hand and this signature are no longer my own. They have been given to me by the people of the village." She has also consistently refused to yield to the demands for commissions and cuts from the officials who sanction development funds. Her efforts at transparency have been supported by the Chetna Andolan, which holds regular *jan sunwais* (public hearings) on matters of public interest and public expenditure, and demands the right to information.

Another heartening example is that of Fatimabee, the sarpanch of a village in Kurnool district, Andhra Pradesh. She wears the burkha in deference to social custom, and can neither read nor sign her name. Despite an initial lack of confidence, she has managed to get the access road to the village metalled; started work on a school; had the public water tap repaired; got land ownership pattas registered; and physically led the village to clean up a large tank. Above all, by refusing to oblige one of her supporters, who was pressing her to lease him the village pond for twenty thousand rupees, she held an open auction which has yielded a lakh of rupees for the panchayat fund. (Panchayati Raj Update, December 1997:6)

In addition to literacy, the women ask for training in leadership, legal literacy, gender justice. But training remains woefully inadequate as well as ineffective. If it imparts anything at all, it is more because its recipients are so eager to

*In addition to literacy, the women ask for training in leadership, legal literacy, gender justice*

learn, rather than on account of any intrinsic merit in the training itself. Training programmes need to address themselves much more frontally to women's concerns. As such, they need to create a consciousness in them about patriarchy and the social and cultural practices that affect women, as also how to organise and build networks and alliances. Above all, training programmes that impart gender-sensitivity to men hold the key to more enlightened policy, even at the micro-level.

#### *Physical Violence*

Physical violence or the threat of it, as well as many shades of intimidation and outright coercion, are not uncommon. As in other elections, violence during panchayat elections is a routine occurrence. In Orissa, 12 lives were lost and many persons injured, during the panchayat elections in January 1997, apart from the familiar range of electoral malpractices, viz., intimidation, booth capturing, rigging and the snatching of ballot papers and boxes. It is interesting that though panchayat elections in Uttar Pradesh, Madhya Pradesh and Rajasthan have not seen high levels of violence, in each of these States, more violence has been reported in women's constituencies than in others. (CWDS, 1999:96)

Women members of panchayats, from Haryana in the north to Tamil Nadu in the south, have faced threats of violence, when they have expressed a desire to contest elections or, once elected, have insisted upon certain decisions. In Haryana, when a woman who had a record of involvement in the campaign against prohibition, decided to contest elections to the Panchayat Samiti on her own, her husband and other relatives physically abused her and threatened to throw her out of the house. (MARG, 1998:53) In Tamil Nadu, a woman representative said that when she won the election, the opposition beat up her husband and relatives. Now she does not move around unescorted, and always carries a

knife. (Kaushik, 1998:45) A tribal woman sarpanch in Pune district in Maharashtra, who also happens to be a primary school teacher, was beaten up by the rival male candidate (and his hired goons) simply because she had won the election and he had not. (Panchayati Raj Update, 1994)

Women representatives in Haryana have complained of physical abuse by drunken husbands, which may not be directly related to their functioning in the panchayat, but certainly impairs their ability to work. In Tamil Nadu, a woman vice-president of a village panchayat said she was reduced to tears by abuse from male colleagues. Another woman representative was simply prohibited by her husband from attending a training camp. (Athreya, 1998:23)

Sexual abuse is also not uncommon. In Uttarakhand, a panchayat member accused officials of sexually exploiting illiterate members before giving approval to the works proposed by them. (Verma, 1998:52) In Rajasthan, the adhyaksha of a panchayat samiti, who was forced to contest the election, was subsequently sexually abused by her brother-in-law who insisted on accompanying her everywhere. When she resisted and complained, her husband and family disallowed her from attending meetings. (Kaushik, 1998:46) In Madhya Pradesh, Kusum Bai, the OBC woman sarpanch of a gram panchayat in Khandwa district, defeated another woman candidate, whose husband, along with three others, gang-raped her. Two days later, completely traumatised, she tried to commit suicide. Other than rape and sexual abuse, it has also been found that women representatives who are efficient often attract slanderous allegations of sexual liaisons. In many States, there have even been attempts to intimidate women into withdrawing from the election by insinuations of affairs with men.

*Above all, training programmes that impart gender-sensitivity to men hold the key to more enlightened policy, even at the micro-level*

Violence against women representatives is, of course, generally worse when they also happen to be members of the scheduled castes or tribes. Gundiyabai Ahirwar, the dalit sarpanch of Pipra village in Tikamgarh district of Madhya Pradesh was prevented from performing a ceremonial duty - hoisting the national flag in her village on Independence Day - because the Yadav majority in the village did not think that a dalit should even touch the national flag. (Sainath, 1998) In the same district, in a village where the dalits are in a majority, the dalit woman sarpanch complains of domination by the OBCs, on whom the landless dalits are economically dependent. The panchayat meetings are held in the late evening in the OBC area, where a dalit woman would hardly dare to venture even during the day. She is never consulted about the agenda of the meeting, but told when to come. When the decisions have been taken, she is simply asked to put her thumb impression on paper, which she does. (ibid.)

#### *Caste and Disadvantage*

Though it is apparent that discrimination is more pronounced in the case of women, panchayat representatives belonging to the scheduled castes and tribes are victims of discrimination and exclusion, irrespective of gender. In 1994, Manulal, a dalit panch in Barbatpur village (Raisen district, Madhya Pradesh) was beaten up, simply because he did not provide the whereabouts of his brother who had had a quarrel with a young thakur while playing dice. In another case, in Chhatarpur district (Madhya Pradesh), Sarman Ahirbar, a dalit who won the election to the post of upa-sarpanch against a rival yadav candidate (though with the support of a high-caste sarpanch) was tortured thus :

*They tied Sarman's hands with a stick in the cross position and poured molasses on his head. The sweet molasses attracted black ants and he was viciously bitten. To add insult to injury, he was paraded around the village for an hour. Helpless and humiliated,*

*Sarman thought he would die. No one came to his rescue. Later, an old man intervened firmly, and he was released.*

(Matthew and Nayak, 1996:1768)

In Rajasthan, Mewa Devi, a scheduled caste member of a panchayat samiti was actually beaten by her fellow-villagers for 'not getting their work done', and though a police case was registered, nobody came forward to help her on account of her caste. Many women representatives surveyed in the various State studies have reported discrimination on grounds of caste. There are several instances of scheduled caste women representatives who are humiliated and discriminated against, with their capacity to chair the panchayats being constantly questioned. (Kaushik, 1998:46)

P. Sainath's survey of several of the 104 dalit-led panchayats of Tikamgarh in the Bundelkhand region of Madhya Pradesh, shows how, after the first year, dalit sarpanches are regularly ousted by a variety of methods : rigged suspensions, manipulated votes of no-confidence, or forcing them into expensive litigation. Where there are two scheduled caste groups in a village, the upper castes support and prop up the smaller one, so that they can retain their control over the panchayat. The fact that all this invariably takes place only after the first twelve months have elapsed - because the rules disallow no-confidence motions in the first year - is clearly not a coincidence. (Sainath, 1998)

Thus, despite the reservation of seats for women and members of the scheduled castes, it is clear that the domination of the upper-castes endures. In intra-family disputes and similar conflicts, it is the upper-caste leaders that village folk tend to approach, rather than the gram panchayat. These castes also tend to influence the choice of candidates for elections, as well as voting behaviour. Hence, to expect panchayat institutions to work in a way that is insulated from the inequalities of local

*Though it is apparent that discrimination is more pronounced in the case of women, panchayat representatives belonging to the scheduled castes and tribes are victims of discrimination and exclusion, irrespective of gender*

society may be utopian, but is it also utopian to expect that, in the long run, these institutions will themselves become mechanisms for assertions by these marginalised groups?

### ***Modes of Gender Exclusion***

#### *Procedural Subversions: No-Confidence Motions*

State conformity legislations specify the procedures for no-confidence motions against chairpersons and vice-chairpersons at all three tiers of the new panchayat system, and though many of these require a two-thirds majority of elected members or of members present and voting, they are found to have been ingeniously used to effectively de-reserve a reserved seat. In various States, it has been observed that there is a pattern in the use of such provisions, which are systematically used by male upa-pradhans to unseat female pradhans, and take control of the panchayat themselves. In many States, safeguards have been attempted against such misuse: e.g., in Rajasthan and Uttar Pradesh, the legislations prohibit a no-confidence motion in the first two years after election, and again for a whole year after an unsuccessful no-confidence motion. In Madhya Pradesh, no-confidence motions are disallowed in the last six months of the five-year tenure of the panchayat.

In Uttar Pradesh, the Zila Panchayat president in Saharanpur district was actually thrown out by invoking this procedure, while a pradhan of a gram panchayat in Dehra Dun district was threatened with a no-confidence motion, only because she refused to surrender the bank passbook to them. In a village panchayat in Alwar district of Rajasthan, the pradhan obtained a stay from the courts to prevent being unseated, but once the stay was cleared, she ceased to be the sarpanch. An inter-State comparison of no-confidence motions suggests clearly the intersection of caste, class and gender. Women from the scheduled caste and OBC categories in U.P., M.P. and Rajasthan

have thus faced a larger percentage of such motions. (CWDS, 1999:130) A scheduled caste sarpanch of a village in Rajasthan was removed by a no-confidence motion, made possible by the abduction of her supporters. (Kaushik, 1998:45) The use of such provisions is also seen to be more frequent in seats which are reserved for scheduled caste candidates, irrespective of gender.

#### *Procedural Subversions: Quorum*

There are variations across States in the quorum required for a meeting, with some requiring a one-third quorum, and others half. However, no State provides for the mandatory presence of women representatives or members of the scheduled castes and tribes. This frequently makes it possible for chairpersons to conduct the meetings with upper caste male members and take decisions. The absence of women is particularly notable at the most basic unit of democracy: the gram sabha. Several conformity legislations – e.g., those of Gujarat and Karnataka – do not specify a quorum for the gram sabha, though some others, like Haryana, Madhya Pradesh and Himachal Pradesh specify between 1/5 and 1/10 of the members as quorum, and a less demanding proportion for adjourned meetings. The gram sabha is precisely the level at which the invisibility of women is the highest. Attempts to increase the visibility of women in this forum invariably take the unsatisfactory form of executive diktat – e.g., a sub-quorum for women – which cannot fulfil the purpose of political participation. Any initiative for democratisation is bound to be less than effective if mobilisation is enforced rather than spontaneous, if those who are being enfranchised voluntarily disfranchise themselves. To make the gram sabha a truly participatory forum for women and men alike, and for people of all castes, would therefore be a necessary step towards democratisation.

*Any initiative for democratisation is bound to be less than effective if mobilisation is enforced rather than spontaneous, if those who are being enfranchised voluntarily disfranchise themselves*

### *The Two-Child Norm*

What has come to be euphemistically referred to as the two-child norm is, in reality, a legal provision rather than a norm. The Rajasthan government issued an ordinance barring those who have more than two children from contesting panchayat and municipal elections. If a third child was born to a member after the election, the person risks losing her/his seat. 450 persons were so disqualified, after their election, 112 of these being women, mostly at the level of the gram panchayat. Other States

have also contemplated introducing such a norm. Though challenged on grounds of its incompatibility with the Representation of Peoples Act and Muslim Personal Law, the High Courts in Rajasthan, Haryana and Orissa have upheld its validity. Such a provision clearly discriminates against individuals from less privileged social groups who might consider contesting elections for the first time. It also places at a disadvantage women who customarily have little or no control over reproductive decisions.

#### BOX 7

### **Equity and Social Inclusion: Women's Voices**

Women representatives from gram panchayats said that according to their experience functions have been entrusted to the panchayats although they do not have the corresponding powers for implementation. A majority of the panchayat members pointed out that some factors, viz. lack of education, inadequate disposable finance, low access to information about the actual management of the PRIs, and lack of exposure to the outside world inhibit their effective functioning. They said that to bring about all round development in their villages, problems related to availability of basic amenities such as water and roads should be solved.

It was felt that discussions on gender and governance should be in the context of powers and capabilities of the PRIs. As the Kerala experience shows, PRIs are effective when political parties give them opportunities to exist and function independently. It is urgent to look at the systems of accountability at the panchayat level, as well as to question, scrutinise and study the power relations in society. Some were of the opinion that gender empowerment is a political issue. Caste and class barriers are also reflected in the PRIs, and result in being exacerbated in the case of women representatives. Thus women representatives face various

problems, viz. violence, lack of political experience, lack of community support and leverage. To monitor and facilitate gender empowerment in the communities, many felt that it could be advisable to find out how many women are actually contesting elections in the unreserved seats.

The group also acknowledged that in many parts of the country women still do not have the right to property. This disempowerment often manifests itself in women's lack of self confidence and voice.

Literacy can be used as a useful tool for women's empowerment, although this does not mean that illiterate women cannot function as effective leaders. Literacy helps women leaders to function to their full potential and makes it easier to deal with financial management and legal matters.

The following recommendations emerged:

- Empowering strategies must be laid down in order to help the PRIs to move forward. Sensitisation for government officials and other area officials by elected women representatives should be conducted.
- Capacity building training programmes should be imparted to all the actors in the PRIs, female and male representatives, government officials, members of political parties, etc.

- To reinforce political will, which would empower the PRIs, ways of creating a ground swell and demand for good governance through the PRIs could be explored. This could be done by mobilising the media, facilitating discussions in civic society forums, gearing up activities for extensive information disseminating, documenting and sharing best practices, etc.

- An institutional framework with adequate resources from district to the national level should be introduced to handle gender sensitive and high quality capacity-building programmes. Elected women representatives and women's groups should then carry out gender audit of these programmes.

- Information technology may be used for up-scaling programmes at all levels and to build up women's constituencies and federate women's collectives. Also, self-help groups (SHGs) and other women's groups could be used as solidarity networks for elected women's representatives.

An integrated approach for strengthening various policy initiatives and interventions related to governance, e.g. right to information, reservation for women in parliament, electoral reforms etc., could be also used.



## Revitalising Public Systems through People's Action

### 8. Panchayat and Community Finance

#### 8.1 Context

Ideally, as units of government, the panchayats should have full autonomy in deciding their priorities and determining the allocations to different programmes. In reality, however, the system of centralised planning followed over the last four decades severely constrains local autonomy. Not only is a substantial part of the outlay of a Five-Year plan committed to ongoing activities, but 'earmarking' a large proportion of plan provisions restricts the extent to which sectoral allocations can be altered. The situation was aggravated by the enlargement, since the Seventh Five Year Plan, of Centrally Sponsored Schemes with tied funds and national guidelines.

There are broadly three sources of funds for panchayats:

- Own resources through direct taxation powers or income from owned or vested assets of a panchayat.
- Fees or assigned revenues like cesses/sur-charges/share in taxes.
- Purposive or untied grants, of different types.

The only tier of the panchayats that has regulatory powers is the gram panchayat. Conceptually, the other two tiers play only extension and development planning/welfare roles. Working on this principle, prior to 73<sup>rd</sup> Amendment, it was argued by

the PR Finance Commission of Karnataka in 1989 that the paradigm of the taxation role is regulatory and coercive and therefore does not go well with the development role, much less with welfare and extension roles. They recommended only the gram panchayats should enjoy taxation powers.

#### *Limited Options*

Insofar as options for making panchayats institutions of self government in matters of economic planning and development as envisaged by 73<sup>rd</sup> Amendment are concerned, it may be noted that panchayats are not allowed to borrow and there is a balanced budget constraint on them. Prior to 73<sup>rd</sup> Amendment, Karnataka was the first to try decentralised planning but was constrained by Central sectoral planning. This left a very limited scope for discretion by panchayats. It was found by the PR Finance Commission of Karnataka in 1989 and later by a study team of Government of AP that 40 per cent of plan funds of the Union and the States put together account for what may be termed as 'district schemes' in almost all the States. The total discretion that panchayats had in selecting their own schemes was only 13-14 percent of the total Plan allocation to a district. It was also found that only a paltry 6 percent of the funds intended for district schemes were being channelised through panchayats. In Karnataka the total of 40 percent of funds intended for district schemes was channelised through Zila Parishads. After a great deal of relaxation in the planning system at the district level only 14 percent

*The only tier of the panchayats that has regulatory powers is the gram panchayat*

untied funds could be made available to the Zila Parishad. The earmarked schemes claimed 86 percent of the total funds. Several scholars have argued in favour of untied funds for development to be granted to panchayats. It has been Stated forcefully that 40 percent of resources should be given from total Plan allocations for district schemes to the panchayats for spending as untied funds on schemes and activities of their choice as determined by a bottom-up micro and district planning process.

### ***Reliance on State Legislatures***

State Legislatures can grant powers to tax any of the tiers of panchayats. Though State Legislations have provided for granting powers to tax or assign certain taxes to panchayats, it is quite clear from a comparative chart<sup>8</sup> that the size of the fiscal domain in all States is inversely related to the panchayat level. The largest number of charges and taxes are leviable at present by gram panchayats. Even where powers of levy are vested at Panchayat Samiti or Zila Parishad levels, actual collection is done by the gram panchayat and the revenue passed on; in some cases, these revenues are shared. Concurrent powers of levy are sometimes assigned on the same base, or the Panchayat Samiti and/or Zila Parishads are empowered to levy a surcharge on any Gram Panchayat tax or fee. The common features of the fiscal domain of gram panchayats across the States need to be focussed on for buoyancy – improving measures of general validity. At the same time, taxes or charges peculiar to one or a few States suggest possibilities for introduction elsewhere.

### ***Fiscal Transfers and “Gap-filling”***

It has been said that gap-filling as an approach to State local transfers must be explicitly rejected in favour of other approaches more compatible with

incentives for local taxes or fees. The levies by Panchayats are most often specific rather than ad-valorem because of the difficulty of valuation in the rural context, and are not indexed for inflation. The only segments of rural property which fall within the taxable domain of Panchayats as defined at present are buildings, non-agricultural land and non-motorised vehicles. The levies on buildings and land offer some possibilities for augmenting panchayat resources. There could be a user levy on agricultural pumpsets over and above electricity charges, since pump sets use ground water, a local common resource. Scope for new property based levies like this appears to be indicated by beneficiary willingness to pay in rural West Bengal. The improved service resulting from transfer of management of tubewells from the State Government to panchayats is a pre condition for willingness to pay. A developmental charge on new construction, commonly levied only by Municipalities, has been tried out by Maharashtra which empowered gram panchayats to charge a betterment levy on lands which have benefited from schemes paid for from Panchayat funds.

### ***Taxes and Levies***

A variant of the betterment levy is a valorisation tax, where infrastructure projects are financed through prior collections from potential beneficiaries, with the concomitant involvement of these beneficiaries in the conception and realisation of the project. At present eight States do empower gram panchayats to collect a special tax for construction of public works, on agricultural land and residential structures or on adult males. The tax on adult males is also payable through a labour contribution. This special tax could be applied in all States. Project specific contribution of this kind meet with less resistance than recurring levies and confer

*The only segments of rural property which fall within the taxable domain of Panchayats as defined at present are buildings, non agricultural land and non-motorised vehicles*

<sup>8</sup> See the useful comparative Tables presented by Indira Rajaraman, O.P. Bohra, VS Renganathan in Augmentation of Panchayat Resources, EPW, May 4, 1996

on the local community a sense of ownership that ensures better maintenance.

### **User charges**

Water and lighting rates are most commonly found across the States, usually at gram panchayat level and occasionally obligatory in nature. Where the facility has resulted from a scheme funded by Panchayat samitis or Zila Parishads they also levy charges in some States on water or lighting. But in all these cases, the levy is collected by the gram panchayat and shared with higher levels. Surprisingly, empowerment to levy charges for street cleaning or for the maintenance of public or private latrines is less common and rarely obligatory. The right to levy taxes on fares, festivals and pilgrims is also not commonly assigned which is an obvious omission considering the strain these events place upon the sanitation infrastructure. Some States also have an explicit charge for irrigation water although in other States such as Tamil Nadu, a charge on irrigation is incorporated in the land revenue.

Panchayats are not commonly empowered to levy user charges on health and education except in Bihar, Haryana, Rajasthan, UP and West Bengal. It is debatable whether such a user charge on students does not come up against the constitutional guarantee of free education for all. The fee on weekly bazars and markets is the counterpart at Panchayat level of the sales tax of States. It is at present assigned to gram panchayats in ten of the fourteen General Category States.

### **Tax Sharing**

A detailed tax wise examination of the provisions under present legislation in respect of both sharing of State level taxes and taxes leviable at Panchayat level is necessary to assist State Governments to provide revenue additionality for

Panchayats. The other issue is major levies on rural property and common resources which together fall within the natural fiscal domain of local governments but are levied by State Governments at present. These are: land revenue on agricultural land, stamp duty on property transfer, and royalties from mineral and forest resources. Land revenue and stamp duty are commonly shareable with Panchayats under present legislation; forest and mineral resources rarely so. It has been demonstrated that a restructuring of sharing provisions and of tax design of the first two could lead to greater buoyancy of collections; and Panchayat shares of forest and mineral revenues from those State levies at present shared only with municipalities could help increase the resources of Panchayats. For now it is sufficient to note that transfer of staff and funds for staff costs, augmenting panchayat's own resources, and grant of untied funds for village plans/district planning are important issues requiring attention.

## **8.2 Panchayat Budgets**

This section reflects on the current position of the panchayat finances in India. The discussion is not around budget numbers, trends and proportions. It is about the gradually *decentralising* system in which panchayat finances are to be located today.

- To elaborate, what are the links of panchayats to other levels of government, both above and below for finances?
- How are they changing?
- Where do funds come from, and how are they spent?
- Who decides what is to be spent, and who controls spending? Are these systems and procedures changing in a way that promotes local autonomy?

*A detailed tax wise examination of the provisions under present legislation in respect of both sharing of State level taxes and taxes leviable at Panchayat level is necessary to assist State Governments to provide revenue additionality for Panchayats*

- Is the panchayat truly local self government, or is it something else: the local representative of the State government?
- Is this difference important at all?

In other words, is the system that has been ushered in by the 73<sup>rd</sup> Constitutional Amendment something radically different from that which prevailed hitherto, or is it the old system dressed up in new clothes?

There is little literature that has looked at this question from a finance perspective. This may not be all that there is to an efficient panchayat system. But it is a necessary ingredient of a new kind of local government for this country, because of the fact that the impetus for local self government has not come from below – the people themselves. It has come from the top for various reasons – chief among them being the question of administrative efficiency.

True devolution (as opposed to cosmetic administrative change) to local governments may be said to take place only when *funds*, *functions* and *functionaries* are transferred to the appropriate level of local government. Such a transfer has to be made in substance, not in form only. And it has to go together – the mere transfer of funds without other changes may even worsen the situation.

This issue becomes important and relevant because the panchayat system has been introduced from above, as it were, through a Constitutional Amendment less than ten years ago. In the Indian constitution, residual powers are with the union, not States and local bodies, as in the United States or Switzerland. This tends to favour the higher levels of government, which are also well established in comparison to the new panchayats. Those working to strengthen panchayats have, therefore, to constantly justify and defend their views and

recommendations. It may be noted that a State seemed to move forward only when the incumbent Chief Minister took an interest in decentralisation. Thus it would appear that local self government is still dependent on the patronage of the head of the State government. The system is still in the process of getting established. This also means that these changes cannot be considered irreversible: a point often forgotten in this debate.

### ***Status of Decentralised Budgets***

The budgets of the union and State governments are presented to the Lok Sabha and the Vidhan Sabha under constitutional provisions. The union budget is presented under Article 112. The budgets of the States are presented to the Assemblies under Article 202. Under this Article, the Governor of a State is required to lay before the legislature every year a Statement of receipts and expenditures for the financial year – April 1 to March 31. Other articles<sup>9</sup> that are relevant to the budget process are 204, 266 and 267. Basically, the State must have a Consolidated Fund for its revenues and expenditures, and this can only be operated on the basis of the Appropriation Act being passed by the Assembly. The funds of local bodies are included in the demands of different departments that implement the various schemes. Sometimes, supplementary budgets are presented, but the underlying process remains the same.

The State also has a Contingency Fund for emergencies. And finally, there is a Public Account in which the State acts as a banker. In the Public Account, the State deals with claims and receipts, such as from the Provident Fund. The various Reserve Funds of the State are shown in this Account. The State has no ownership on the Public Account, but acts as a receiving and

*True devolution to local governments may be said to take place only when funds, functions and functionaries are transferred to the appropriate level of local government*

<sup>9</sup>This has been well discussed in S.S. Karnik, *Essentials of the Budget Process of the State Government*, Centre for Budget Studies, A Vidhayak Sansad Publication, Mumbai, 1998.

disbursing agency. The approval of the legislature is not necessary here. Studies of the Public Account are few and far between.

It is the State government that is responsible for the finances of local bodies, be they urban or rural. Even today, many of the powers that have been given to local bodies are delegated powers, and the State government continues to retain overall responsibility in this matter. This means that suitable arrangements for the transfer of funds and their use become necessary after the 73<sup>rd</sup> amendment. In part, this has been looked after in part by the setting up of a State Finance Commission on lines similar to the one set up every five years by the union government. In Art 280. In clause (3), after sub-clause (b), the following sub-clause has been added:

“(bb) 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.”

The powers, authority and responsibilities of the three levels of panchayats are laid down in Article 243G, 243H, 243I, and 243Z of the Amendments. For finances, the key article is 243H, according to which the “Legislature of a State may, by law...” authorise the panchayats. Few things are mandatory in these articles. They leave a great deal of discretion to the State in what is to be passed on to the panchayats.

The system of accounts to be used is the one approved by the Comptroller and Auditor General of India. This is a system that arranges all items under clear heads of expenditure with unambiguous codes. This system is uniform across the country. But as it stands today, the system has been defined only for the union and State governments. Thus, when it comes to panchayats, and local bodies, budget information is

often not available in the appropriate form. Since it is not mandatory, accounts are kept as they evolved over time. Often it is not a system of double entry book-keeping. This makes budget analysis at this level rather complex.

We look at the question of financial decentralisation as a necessary aspect of the functioning of the PRI system. Here we look at the experiences of a pioneer State – Karnataka; a State which took up PRIs after the 73<sup>rd</sup> and 74<sup>th</sup> amendments – Madhya Pradesh; and a latecomer to this system, Uttar Pradesh. In each of these States, when Panchayati Raj was on the upswing, the top political leadership in the State was at the forefront of the decentralisation movement.

### **Karnataka**

Karnataka has vested administrative control of local officials in the Chief Executive Officer (CEO) of the Zila panchayat. They are not under the control of the local elected body—as they used to be in the earlier law. They continue to be employees of the State government. The CEOs also have powers, defined in the recent law, to refer to the State government decisions of the ZP which they feel are not in tune with the law. The CEO is the nodal point of development effort in the district. One indicator of this lies in the fact that about 40 percent of the State’s development budget is transferred to the Zila panchayats after the budget is passed each year. While the ZP may discuss the budget, it cannot act if the CEO disagrees with its decisions and decides to refer the matter to the State government.

When we speak of district budgets, it is difficult to find two sides – income and expenditure. While there is some tax power with the local bodies, very little by way of taxes is collected. Thus they have very little by way of their own resources. They depend on devolutions from the State and

*Many of the powers that have been given to local bodies are delegated powers, and the State government continues to retain overall responsibility in this matter*

central governments. Some have argued that the share of own funds to devolved funds would be an index of autonomy of the ZPs. Perhaps. But it must not be forgotten that the local bodies are entitled to a share in the tax and other revenues of the higher tiers of government. Their share today is given in tied form – it is for untied funds that they must struggle. Thus share of tied funds to untied funds may be a better index of autonomy. Today it is quite adverse.

This information on district allocations is contained in a document called the Link Document of the State budget. This Link document gives information on what has been allocated to these bodies after the passing of the budget by the State assembly.

This figure is treated as the *income* side of the district budget. The *expenditure* side is obtained from the ZP office after audit by the Accountant General has been completed. This often takes a long time, so the data is not for the current year. It is often delayed by about three years. This in itself reduces its utility. It is sometimes conducted on a sample basis – an estimate of standard error is needed, but not available. This will be an important research subject in the near future.

A study of ZP budgets in two districts has shown that *often the money allocated is not spent*. We can perhaps say that, money per se, is not a (at any rate a major) constraint on local development efforts. When reasons for non-utilisation were probed it was observed that money was allocated in different schemes, and could only be spent in specific ways after specific approvals. There is no flexibility in the system. If a particular scheme is for some reason not relevant in a district, the money cannot be channelled elsewhere and it lapses. If the amount to be spent is over a certain modest limit, then approval has to be sought from the competent authority – which is often at the State

level. This takes time, and leads to time and cost over-runs. Thus, the local body is a channel for directing expenditure, but it has no discretion. The result is that money allocated may not get spent. If this is to change, then flexibility at the local level is essential.

Also, *not much may be designed to be spent at the local level*. The Karnataka HDR gives a figure of one thousand three hundred rupees for the annual per child expenditure on primary education. Of this, 90 percent is on salaries. A study of education finances at the district level<sup>10</sup>, reveals that, excluding salaries, only seven rupees per year is spent at this level. But if the major chunk of expenditure in a district is undertaken by department outside the purview of local elected bodies, then what kind of local government have we built up?

Thus, the State spends on these subjects much more than would appear from a scrutiny of the district budgets. The point is made that we should not draw conclusions about what is being spent in a district from the panchayat figures. This may be true, but then the question arises: what is devolved? What role do these elected bodies play in the budget arena? Why is the money not being devolved? What advantages are there to this system? What are the advantages of centralised operation? Who takes decisions when the panchayats are not involved?

What we find is that *funds are routed through the local bodies*. The administrative procedures for reapportioning, approval etc are complex, and at a level above the district. The political bodies do not have much say in these decisions. It is the State assembly that passes these budgets, and the cabinet and the civil service that operates them. This is at best limited decentralisation.

An important question from the Karnataka experience in recent times relates to the role

*The local body is a channel for directing expenditure, but it has no discretion. The result is that money allocated may not get spent. If this is to change, then flexibility at the local level is essential*

<sup>10</sup> A. Indira and Vinod Vyasulu, "Education finances—A study in five districts", A report submitted to the District Primary Education Programme, GOK, 1997.

*The State has begun exercises to devolve more of departmental funds to the panchayats, apart from the shares recommended by the Finance Commission*

of the civil servant. What power should he or she exercise at the local level? Why should the CEO be vested with veto powers over the elected body? If the elected body takes decisions contrary to law, then the matter should be settled in the courts. Why should we assume that the civil servant exercising a veto is a better option? Should not the civil servant act on the orders of elected authority? If the answer is yes, then Karnataka must re-examine what it has done in recent years.

Of funds, functions and functionaries, none is fully devolved at the district level in Karnataka. It is a case of change in form, not substance. This is a State that has felt the effects of a backlash to a quick opening up. What lessons does this hold for other States? To use a cliché: Make haste slowly!

#### **Madhya Pradesh**

Madhya Pradesh has been a pioneer in the panchayati raj movement after the 73<sup>rd</sup> amendment was passed. Elections were held in 1993-94, and the second round has been conducted in 1999. Those elected to these bodies have been involved in development projects from the beginning. The State government's Rajiv Gandhi Missions in the social sector were all implemented through the panchayat system. This gives an idea of the structural shift being attempted. *Funding at the panchayat level is then a means to facilitate a larger change in the way government functions.*

So far as finances are concerned, the State has begun exercises to devolve more of departmental funds to the panchayats, apart from the shares recommended by the Finance Commission. Each department has been asked to identify the local component and transfer it to the district account. An allocation of functions has been worked out across the three local levels, and funds go to the appropriate level automatically.

Officials are also being transferred to work at this level.

Under the 74<sup>th</sup> amendment, there is a provision for a District Planning Committee (DPC). The State has constituted a DPC in all the districts. The composition is in accordance with the provisions of the 74<sup>th</sup> amendment. A minister in the State government has been given district charge – there is one for each district – and is the chairman of the DPC and the link between the two levels of government. He is answerable to the cabinet and the State assembly on the one hand, and to the local authorities on the other. The DPC has been empowered to take decisions up to three crores of rupees at its level. Thus the powers have been devolved substantially to local levels. For example, primary education has been handed over to the districts. This is referred to locally as the district government.

*The State is also in the process of developing a coding system for local finances. Just as the Comptroller & Auditor General (CAG) has approved a system for the State, MP is planning a Part 3 document for the State budget which will give all information about the district and lower levels in the same format. It is an elaborate format, designed for electronic data processing. At the moment, discussions are underway with the CAG to get approval for this system*

Once that approval is obtained, this part 3 will be a part of the State government's budget presented annually to the Assembly. This is important because such an approval will make it difficult for individual ministers to make re-appropriations on whim. It will enable one to trace expenditures all the way down to the gram panchayat by item. Discussions on expenditures, on promises made, can take place at the local level on the basis of facts and figures. It will be a major change in the way things are done

today. The succeeding budgets are expected to include this innovation.

In the first year, the figures will be what the departments have decided, in the old process. But over the years, the district governments will be in a position to send in their priorities, which will be used in framing the budgets. A process is about to begin in which, for the first time, local priorities will play a role in what is decided upon. *The process of transferring funds, functions and functionaries has been initiated.* This means a downsizing of the State government as it exists today. We have to see how the system will respond to the backlash that may be expected. But a step forward has been taken. If things work out as planned, this will be an important step in making local government more meaningful in the State, and its reorganisation into two States will in no way roll this back.

### **Uttar Pradesh**

UP is the most recent convert to the decentralisation bandwagon. The reason could be the fiscal crisis of the State, which has left it with no other alternative. Since 1999, major steps have been taken to foster local self government.

The State government with a view to bringing in a sustained process of decentralisation and people's participation in 1999-2000, have accordingly devolved a large number of more specific functions and powers to Panchayats to enable them to play their rightful role in the process of development. Along with functions, assets and funds have also been devolved. School buildings will from now on be the assets of the gram panchayats. Teachers and others will work under the control of the gram panchayats. Funds required for construction, maintenance etc will be directly given to the gram panchayats. Just as the State has a Consolidated Fund, each panchayat will

have a *Gram Nidhi* – its own consolidated fund, and it will be operated in the same way.

Like other States, UP has been implementing development and social sector projects at the State level. The change of heart now may have something to do with the fiscal crisis of the State, and the consequent need to use available funds more efficiently. It could have something to do with political compulsions: devolving powers may both take pressure off the Chief Minister and build a new base of support for him. Be that as it may, in the last year a number of functions have been transferred to Gram [village] and Kshetra (taluk or intermediate) panchayats in Uttar Pradesh.

The Gram panchayats have been given the responsibility for primary education, State tube wells, handpumps, youth welfare, medical and health, woman and child development, animal husbandry, fair price shops, agriculture, rural development and panchayati raj. For all these functions, funds are being handed over to the gram nidhi, which will be operated by the pradhan and the secretary jointly. *The staff are also being put under the control of the panchayat. The powers are being given, not to the president or an office bearer, but to the panchayat as a whole.* It can act after meetings in which the issues are debated and decided. Given the reservations for weaker sections and women, these groups should have a voice in decision making. At least the structure is meant to facilitate this.

Further, sanction and disbursement of pensions will now be handled by gram panchayats. So also will the distribution of scholarships, which will be done by the education committee of the Gram Panchayat.

The financial powers are substantial. First, "all assets which are related to the functions given to the gram panchayats and located in the village will be transferred to the gram

*The State government with a view to bringing in a sustained process of decentralisation and people's participation in 1999-2000, have accordingly devolved a large number of more specific functions and powers to Panchayats to enable them to play their rightful role in the process of development*

panchayats on a date to be fixed by the district magistrate after wide publicity in this regard. The amount which was so far being spent by the concerned department on maintenance of these assets will be given directly to gram panchayats." Further, funds will be provided to the gram panchayat for

- The works transferred
- The maintenance of assets transferred
- Paying salary of the staff transferred
- Payment of honorarium to teachers and new staff appointed by the Gram Panchayat would be provided.

UP is the first State to have committed itself to a non-discretionary transfer of funds. This has led to substantial resources becoming available to the gram panchayats in recent years. In 1996-97, the *gram panchayats* got Rs 20 crores. In 1997-98, it rose to Rs 255 crores. In 1999-2000, it is expected to be 328 crores of rupees – the devolution of 4 percent of tax revenues.

Apart from this, rural development funds are being transferred to gram panchayats, as also funds as per the recommendations of the Central Tenth Finance Commission. The total for 1999-2000 is expected to be 1100 crores of rupees. This is a substantial amount.

The gram panchayats have also been empowered to collect irrigation tax and deposit the amount in the Gram Nidhi. They can impose a surcharge on land revenue and keep the money in the gram nidhi.

Meetings of the gram panchayat are to be held on the second Wednesday of every month. Where women are pradhans, instructions have been given that their male relatives cannot attend any meeting. If they visit the woman pradhan's office, this is to be recorded in a register, giving the reason for the visit. Whether such instructions are

enough to curb gender dominance remains to be seen. But at least the instructions show an awareness of a major problem and a desire to deal with it. This is most positive.

The gram panchayats are expected to keep proper accounts, get them audited according to norms to be set by the State government, and to present these accounts in the gram sabhas every six months. All villagers in a gram sabha area have been given the right to demand and obtain any document for a prescribed fee – a modest one of five rupees upto five pages, and a rupee per page beyond that. In a similar way, kshetra panchayats – the intermediate level, have been given clear and defined powers, responsibilities and staff. All block level officers will come under this body, which will also be given funds to meet its responsibilities. At the Zila panchayat level, the Pradhan has been made the Chairman of the DRDA. A Chief Officer will be posted as its secretary to work with the Pradhan. The ZP will work through six committees, and it is the committees in which the powers are vested, not in the officers.

To co-ordinate work, the State has constituted District Planning Committees under the 74<sup>th</sup> amendment. Four-fifths of the members will be elected from among the ZP and municipalities of the district to the DPC, in an election organised by the State election commission. One fifth of the members will be nominated by the State government. This will include a minister from the council of ministers, who will chair the committee. The DPC will have a minimum of 20 and a maximum of 40 members. All MPs and MLAs of the district will be permanent invitees of the DPC. "After properly considering the developmental plans prepared by the ZPs and municipalities by taking into account their mutual interest, specially regional planning, share in water and other physical and natural

*Uttar Pradesh is the first State to have committed itself to a non-discretionary transfer of funds. This has led to substantial resources becoming available to the gram panchayats in recent years*

resources and integrated infrastructure and environmental development, *the DPC will finalise the district plan at the district level itself*".

What is very interesting about the UP model is that *the district plan outlay of the district will be placed at the district level through the State budget*. Sanctions will be given by the DPC at this level. The need to travel to the State capital for everything is being systematically reduced – true decentralisation, even if a first step in a larger scheme of things.

### **Summing Up**

This quick review of the current State of decentralisation of local finances shows the following:

*First*, decentralisation seems to take place when the State governments take an interest for some special reason. In Karnataka, in the first flush, it was the need to find an important issue to fight the union government with. This resulted in far reaching legislation that perhaps its own proponents felt went too far. The result was a back-lash in subsequent years from which the State has yet to recover. Local politicians speak wistfully of the old system, but the fact remains that when it was being systematically dismantled, there was little effective protest from them. Until local people develop a stake in self-government, such decentralisation will remain at the mercy of the State government.

*And in this process of the ups and downs of panchayati raj, the delegation of financial powers, and the actual transfer of funds played an important role in controlling the extent of decentralisation.* Apart from higher level politicians, the local bureaucracy too resisted the process of decentralisation. In MP and UP too, the impetus has come from the Chief Ministers. We have the interesting situation in which higher level politicians push a decentralisation of functions. It is not the result of local people making a demand for

such powers. Thus when Chief Ministers change, the system moves backwards.

*Second*, the experience of Madhya Pradesh shows that a carefully thought out process of devolution, in which the panchayats are the vehicles through which a demand for social services is generated, begins to provide a base for a genuine local government. When the panchayat is a vehicle for airing demands, then a partnership is possible with the State government – but only if the State government responds positively. The first steps are crucial. Today in MP the system may last because the people have begun to see the benefits. This has also made it possible to go further, and use the district planning committee as a vehicle to institutionalise a decentralised form of development project implementation. But it is still at an early stage.

*Third*, the UP example tells us that change can be pushed through very quickly in times of crisis. This is what the World Bank calls "big bang reform". It does not seem to be a coincidence that the kind of decentralisation that UP undertook was done at a time of fiscal crisis. That is when opportunities for experimentation open up – and UP has decided to do so in a decisive way. The challenge will be to keep the momentum going.

From all this, it would appear that several things still remain to be done.

*The lead given by MP of having a part 3 to the State budget, must be followed up.* If MP gets the approval of the CAG to its system of accounts, then that is a model other States can accept. Pending such approval, a start can still be made. It should be put into operation everywhere. One important impact will be that discretionary diversions by ministers will become much more difficult when the Assembly passes a budget in which details, rather than totals, are clearly given.

*When the panchayat is a vehicle for airing demands, then a partnership is possible with the State government – but only if the State government responds positively*

Information should be shared, not suppressed

Diversions will then require cabinet sanction and legislature approval, so they will have to be politically negotiated.

This will be a massive operation. Finance departments in all the States will have to gear up to the change. Other government departments will have to adapt to the new reality – from the departments of Panchayati Raj to the Directorate of Economics and Statistics. Information will have to flow in different ways, and be used in different ways and at different speeds. The complexities of this should not be underestimated. *It will need careful preparation.*

*A mechanism for resolving disputes and conflicts at this level is essential.* Not all matters can be resolved at the level of a district. Issues of the use of river water, sharing of costs on projects that spill across districts, and so on will need to be resolved on a continuing basis. There seem to be two ways of dealing with these issues. One is to refer them to the State government. This has the advantage of familiarity of the process. This is how things have so far been handled. But it is also true that not all are happy with this process. A second could be to constitute an Inter-District Council (on the lines of the Inter-State Council mandated by the Constitution) with the Governor as Chairperson, the Chief Minister as Convenor, and one of the Zila panchayat president, by rotation, as Vice Chairperson. The Planning Department could be the secretariat of the IDC. This body should meet at least twice a year, and it could work through sub-committees.

No State has tried this model. Yet, Madhya Pradesh, for example, has a District Development Council, modelled on the National Development Council. This experience could be taken into account in working on this issue. But some such *institutional* arrangement is desirable as a complement to panchayati raj functioning.

Pending the adoption of this type of model of local budgets, *access to information has to be ensured.* In Karnataka, we found that there are many hurdles to getting information. It is not just a question of obtaining permission from senior officers – that is not difficult. *It is the structure of government functioning in which facts are normally kept from the citizen – especially the poor and illiterate one.* This attitude will not be easy to change, especially in the lower bureaucracy. It is not just a question of passing of a Freedom of Information Act. The existing Official Secrets Act will have to be repealed, and government functionaries trained in a new setting. In the normal course, information should be shared, not suppressed. It will be a massive task.

There are some other steps that seem desirable. If indeed functions, funds, powers and functionaries are devolved, then it will be necessary to put in place a certain discipline. As in UP, *plans, budgets and accounts must be presented at all levels of the decentralised system – especially the elected bodies.*

In UP, the system asks for six monthly presentations of accounts to the gram sabha. This is a wonderful idea, but we have to see how it works. What is the gram sabha? Is it one meeting of all the people living in the area of a gram panchayat? Or is it a meeting in each hamlet that constitutes a gram panchayat? Will they be held in a way that will enable women to participate freely? There are many questions that still need an answer.

At the district level, a beginning has to be made by *having a district budget presented to the Zila panchayat.* The ZP should have a budget session. The Chairman of the Finance Committee should present it formally. Today, the ZP may have no powers to amend it. But it should be discussed, and perhaps monitored by the ZP members in a systematic way. Once presented, regular reports

should be given. The existing system of MMRs – monthly monitoring reports – is totally inadequate – and often inaccurate as we found in our studies. A budget session will force improvements in the system.

Eventually, the DPC should be in a position to decide priorities and the State government must respond to these priorities. The experience of UP shows this can be done. We are a long way in the country from such a situation, which should be treated as a goal to work towards. Even the work with the people's plan in Kerala, generally considered the most advanced in India, has not gone so far<sup>11</sup>. This will require many changes in the attitudes and priorities of local politicians and a massive dose of technical training for the officials concerned. Many agencies will have to be mobilised for this task. We have a long way to go. Karnataka has yet to constitute the DPC<sup>12</sup>! The leader has become the laggard.

*The suggestion that panchayats be empowered to levy a presumptive tax on agriculture needs to be pursued. The existing legislation permits this. But a suitable method has to be worked out and implemented. This is an idea which requires that local productivity be the basis for calculating the tax burden. A study of Dharwad has shown that the idea has promise, even if it requires political will to implement. The tax will vary across districts and crops, and provisions for dealing with crop failures and disasters can be built in.*

*Finances then, are the lubricant to the system. What we learn from the three States whose experiences we have looked at here is this: local government has still to take root. It is a process to be nurtured slowly. Financial devolution is like water – it can facilitate, or strangle, this process. How to use financial powers to facilitate decentralised local government is the basic question facing our States.*

## 9. Accountability of Local Bodies

The Constitutional Amendments in the 1990s to revive local self government provide a major opportunity and avenue for empowerment of the people if we ensure that social audit constitutes the core of our concerns and is supplemented by audit of papers – whether conducted by professional auditors or Comptroller & Auditor General – instead of the other way round. Suggesting a framework for such a system of accountability, in which both social audit and that of auditors play their legitimate roles and complement each other, is the objective of this paper.

In India, the citizen's right to information exists; the problem is that direct access is denied. A citizen can gain access only through the institutions of the legislatures where questions can be raised, the press which reports on different issues, in Courts where evidence is summoned or through reports of the Comptroller and Auditor General – never directly. The distortions suffered by information when thus channelised as well as the frustrations of the common citizen in the process are well known. A good deal of the tyranny of clerks and officials based on their custody of the precious papers can be whittled down by the advent of information technology. More can be done if the social movement for the right to information gathers momentum.

*In India, the citizen's right to information exists; the problem is that direct access is denied*

### 9.1 Accountability and Constitutional Status of Local Bodies

Local bodies are distinguished from other instrumentalities of the State in India, like commercial public undertakings or non-commercial autonomous bodies, by the fact that they have powers to levy and collect taxes. They perform regulatory and development functions. Constitutional Amendments in 1992/93 ushered in a

<sup>11</sup> This Statement is based on personal discussions with many involved in this process.

<sup>12</sup> There is debate about who should chair the DPC in Karnataka. One view is that it should be the president of the ZP. But the developed municipalities feel they will not work under the rural ZP president. On such trivialities does the fate of the system hang in this State.

framework for reviving them by means of conformity legislation by State Governments. They are defined today as institutions of local self government with a development orientation. The complexity of pondering structures for their accountability is due to the ambivalence in their status occasioned by the agency function they are

required to perform with funds devolving to them from the Central and State Governments.

In the late 1980s, initiating the thinking which culminated in the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendments, Rajiv Gandhi noted the reasons for the impulse: “If our district administration is not sufficiently

#### BOX 8

### Administrative and Financial Devolution: Strengthening Local Domains

Several experts and consultation reports point out that an index of decentralisation, such as decentralised expenditure ratio, could be used by finance and planning commissions in transfers of funds to the States. This has been attempted in the Report of the Eleventh Finance commission. There is of course, a need to further refine indexing methodologies

It has been argued that local bodies should be recognised as local governments, although till now this has not been so. This implies that para-statal bodies, whose functions overlap with local government, should not be there anymore. This would be difficult in the existing context, but there was no point in talking of administrative decentralisation if this was not accepted. For example, the District Rural Development Agency (DRDA) and the District Urban Development Agency (DUDA) must be done away with. The Government of India has already so decided, and some governments, like Karnataka, have done away with the DRDA. Bodies headed by locally elected officials must also replace all bodies headed by collectors. This was a necessary condition for decentralisation to work satisfactorily. Functions like the issuing of certificates of birth, of death and so on, must be given to these bodies. They could charge a fee for such services and thus augment their resources. These bodies really depend on rates rather than taxes, and the number of activities where they could collect such rates for clear services should be given to them. Devolution of funds to these bodies must be compulsory and not discretionary. Popu-

lism in fund transfer and use must be avoided. State schemes must be given up in favour of local schemes. State finance commissions may be asked to consider the devolution of all funds with the State, not just own revenues.

It is necessary to document good and best practices and disseminate information about them. Care should be taken that best practices should not be replicated mechanically as local adaptations are essential. There is need for greater debate and discussion, especially at lower levels. As a first step, workshops could be held at the State and district level.

Planning, especially micro-planning, has to be emphasised and encouraged. There is much to learn from the Kerala experience in this regard. But successes that are also elsewhere should be documented, so that lessons could be drawn for policy making.

At each level, the finance sub-committee must be concerned with budgets. It is essential that these bodies adopt accrual based accounting systems, which at present are not in place. Annual accounts—and one set of accounts for all purposes, must be prepared and placed before bodies like the gram sabhas and its equivalent (e.g. the ward committee). Priorities of micro planning must come from the ward committee/gram sabha. They must be more than just beneficiary selection bodies and the basic principle of audit, of hearing the tax/rate payer must be brought in and extended at the local level. This may not be necessary in commercial audit, but it is essential in the audit of local bodies. The elected official concerned with

finance must present a budget each year to the general body—at gram panchayat, block parishad, zila parishad and municipality levels. This will help proper sharing of information and generate informed debate. Even if there is no need for “approval” of these budgets as in higher level bodies, such presentations must be made routine. Over time, this process must lead to a shift from scheme based funding from higher levels to theme based untied funds.

To facilitate this, data bases and management information systems on budgets and development indicators must be created and maintained at all local levels. The data can be passed on to higher levels for analysis and use, but analysis and use for local level budget and planning must be brought in. Data from these sources should be made available to all at nominal cost. Donors can support the setting up of these databases, which will require considerable effort in the beginning. NGOs could play a useful role in this respect and State governments should be encouraged to support this activity.

It was therefore recommended to:

- Abolish the functions of the DRDAs and give their money to the PRIs.
- Revise the top down approach of planning so that it is from below.
- To shift from tied to untied funds.
- To encourage a system of maintaining a database at all these levels.
- To shift to an approval based on accounting system.
- To revitalise the gram sabhas and a need to set up ward committees.

responsive, it is because it is not sufficiently representative". The rationale for the Amendments, therefore, was to generate greater accountability of government. Locating representative institutions of government closer to the people was considered necessary for empowering them. The Amendments elaborated the framework for relations between State Governments and institutions of local self-government, a task left incomplete when the Constitution was adopted in 1950. Nevertheless, in the perception of State capitals, the agency function of local bodies for implementing development schemes still overshadows the responsibility for self-government.

This perception of State Governments is understandable but not acceptable in the context of the current discourse on good governance. The perception emerged as a result of the chequered career of panchayats since 1860. During 1860 – 1950 which village panchayats were transformed, from being judicial bodies dispensing customary law, to self-financing local bodies; and further, since independence, to simply serving as agencies of State Governments for development. The Constitutional Amendments in 1992/93 reversed this trend and sought to empower people by bringing institutions of government closer to them.

## **9.2 Transfer of Financial Powers and Desirable Structures of Accountability**

A dialogue between the Union and States on issues related to devolution of powers to local bodies and desirable structures of accountability is essential because the fact that empowerment is the core of development is not sufficiently appreciated by them. Their apprehensions about an apparent trade-off between efficiency of service delivery and empowerment of the people, needs to be allayed. However, without an

appreciation of the nature of the corporate character of local bodies, their financial viability and the old existing relations of the State Governments and Panchayati Raj institutions, such a dialogue may prove difficult.

Accountability is a much larger issue than the maintenance of accounts or audit. To begin with, it must be borne in mind that the Constitutional Amendments, in spite of their sweep, nevertheless remain a part of the Directive Principles. It is doubtful if they are justiciable in the same way as matters relating to fundamental rights. They only provide a framework for conformity legislation by States. Actual translation of provisions in conformity State Acts into devolution of powers for local bodies to carry out the functions is likely to progress at a different pace in different States. The process of devolution of powers to tax, plan, manage finances and implement programmes – initiated by the Centre, entailing a transfer of powers from the States to local levels – is being mediated through political structures of parties/government and public administrators. The propensity to retain controls by providing for caveats at every step, in the name of accountability, could create a labyrinth of rules which actually diffuses all responsibility. On the other hand, populist decentralisation without thinking through systems of accountability could prove financially disastrous.

The paradox, of systems of trust making for greater accountability and systems of distrust with obligatory checks and balances ending up in a saga of collusive corruption, is well known. There are many Sarpanches of the informal single-village (not the official gram panchayat) who enjoy the trust of a village and are public spirited. In several villages the funds collected within a village are kept with a resident and popular school teacher or a retired soldier who serves as

*Accountability is a much larger issue than the maintenance of accounts or audit*

*Without rewards and punishment, accountability collapses into a dead heap of procedures on the one hand or pure sophistry on the other*

the treasurer, invests it prudently with a local *bania*, draws and disburses money whenever required, and all is well for decades. On the other hand we have the official systems, private or public, where all too often collusive action defeats all conceivable designs of checks and balances.

Without rewards and punishment, accountability collapses into a dead heap of procedures on the one hand or pure sophistry on the other. For instance, surety of punishment whenever a fraud is detected is important for sustaining any system of accountability. Instead of severe punishment being meted out, there has been a growing tendency, perhaps an imperative of large-scale organisations in a 'soft State' context, to treat the errant person with kid gloves and prescribe more rules/regulations to foreclose the possibility of its recurrence in future. It is important to bear the notion of trust and eschew half-hearted delegation of powers while contemplating structures of accountability of local bodies.

#### ***Existing Local Structures of Accountability***

In theory, local bodies should be accountable to their electorate or ratepayers. However, the twin infirmities, of domination by local elites to the extent that a panchayat is often identified with the office of a Sarpanch and that panchayats are dependent on higher tiers of government for finances, renders the design of structures for their accountability rather complex and problematic. It creates an anomalous situation where elected bodies become accountable not to a higher tier of government but to bureaucrats who oversee their functioning. In the past, these infirmities were accepted as 'given' and we chose to accommodate the distorted structures of accountability that followed. The perspective needs to change. The Amendments provide a framework to overcome these infirmities. Several

scholars and civil servants have argued that harnessing the services of NGOs to ginger up the implementation of social programmes can help to wear down the stranglehold of local elites on local bodies. Similarly, there is scope for augmenting the finances of panchayats with greater assignment of taxes by State Governments to them. The system of accountability to the people can find its feet only within such a perspective.

#### ***Rationalising Bureaucracy: Integration of DRDAs with Zila Parishads***

The merger of District Rural Development Agencies (DRDAs) and similar district agencies (which act as conduits for finances from the Centre and States to the districts) with the panchayats is important for an uncluttered system of social, administrative and financial accountability of local bodies to emerge. Since local bodies perform regulatory functions and are to undertake the responsibility for implementing social sector programmes – spanning education, health, employment and environment – delivery of services is a critical concern. If systems for financial accountability pose problems for the flexibility of local bodies, which could be their basic strength, then surely a change in financial systems is necessary.

#### ***Local Audit Systems***

The format of accounts of local bodies were prescribed by State Governments and audit was conducted by Examiner/Director of Local Fund Accounts Department (LADs) acting under provisions of old, existing State Acts for local fund audit. Conformity legislations by States show that, by and large, the system would continue to be relied on. The only exception to the LAD system of audit today is in Karnataka where the Panchayati Raj Act of 1993 provides for external audit certification and transactions

audit of Zila Parishads and Taluk Panchayats by Comptroller and Auditor General of India. Gram Panchayats are to be audited by Controller of Accounts of the State Government.

For several reasons, the extant LAD framework in all other States is not adequate in the changed scenario since 1993. The sole concern for regularity in expenditure to the exclusion of an eye for service delivery aspects is not suitable in the present context. Reporting audit results only to bureaucrats rather than the legislatures is unacceptable. The opaque culture of internal audit, and the ineffectuality of the system of disallowances and surcharges under the LAD system, render the system inadequate to deal with securing accountability for very large sums of money. Besides, the scope of the functioning of local bodies has changed. Apart from the funds to be granted on recommendations of the Eleventh (Central) Finance Commission for non-plan requirements, approximately 40 per cent of total Plan funds of the Centre and States put together (ie. about Rs 30,000 crores) are expected to be spent annually by local bodies for 'district schemes'.

### ***Challenges of Fiscal Devolution***

In view of the large quantum of funds to be spent by local bodies, especially in the light of recommendations of the Eleventh Finance Commission, LADs and CAG are likely to gear up their respective internal and external audits. CAG's reports to the legislatures on performance of social sector schemes might lead to some refinements in policy or design of schemes, but the irregularities in transactions pointed out by him are rarely acted on despite recommendations of Public Accounts Committees (PACs). Therefore, the internal (State LADs) and CAG's audits of the transactions of local bodies will not result in providing

any assurance by way of annual published performance and financial Statements certified to say that apart from the points noted by auditors, all is well with the finances of the local bodies. For such an assurance to taxpayers/ratepayers at any level of the people/their elected representatives/ or of government, the State Acts must stipulate a system of annual certification of accounts and publishing performance reports of local bodies.

### ***A Professional Cadre***

Accounts of local bodies at sub-district levels could be audited by professional accountants and a Court of Audit procedure could be established by CAG at the district level, based on suitable amendments to Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act 1971, to hear comments and complaints of tax/ratepayers before certifying Zila Parishad and Municipal Council accounts. The Courts of Audit must follow summary procedures on the lines followed in France at the national level.

### ***Requisite Amendments***

Since not much thought was given by State Governments while enacting conformity legislations to provisions for accounts and audit of local bodies, the decision of the States to continue with the old LAD systems bears review by them. Amendment to the Central Act governing CAG's powers and advocacy for introducing appropriate provisions for accounts, audit and follow up action on audit observations in conformity State Acts, needs to be undertaken by Government of India.

Apart from the issue related to whether political structures or developments will support panchayats or not, the question as to their remaining largely development agencies implementing Union/State spon-

*In view of the large quantum of funds to be spent by local bodies, especially in the light of recommendations of the Eleventh Finance Commission, Local Accounts Departments and the Comptroller & Auditor General are likely to gear up their respective internal and external audits*

sored programmes with tied funds or assuming the mantle of local-self government will depend on their ability to gather financial strength.

It is noteworthy that accomplished administrators have argued for the abolition of existing bodies like DRDA, DDA, DDCs and so on. Powers of revision of individual decisions and for issue of 'stay' should not be retained by government or other levels. *Monitoring should be only through published Annual Performance Reports and through audit.* Individual decisions should not be subject to review or revision by the bureaucracy or by the Ministers at the State level.

The fact that most of the funds for local bodies devolve to the district level from the Union/State levels distorts the powers for self-government. The ambivalent status of local bodies is highlighted by the 1999 Guidelines for DRDAs of the Ministry of Rural Development. It has been clarified in the Guidelines that the role of DRDAs is not to implement programmes but to 'oversee' implementation by way of monitoring and technical support. Chairperson of the Zila Parishad would be ex-officio Chairperson of the Governing Body of the DRDA and would preside over meetings of the Governing Body of DRDA to decide policies, approve the annual plans and schemes and monitor/review implementation. However, the executive and financial powers should vest in the District Collector/DM/Deputy Commissioner who may be designated as the Chief Executive Officer or Executive Director. They would sanction and execute projects.

Even States which had boasted of stabilised Panchayati Raj in the past, such as Maharashtra, Gujarat and West Bengal, had chosen to keep separate identities for DRDAs though the respective PR legislations had enabled PRIs to handle the mat-

ters fully. The logic given to justify this situation was not sound, as noted by Karnataka, which abolished the DRDAs and transferred the functions along with staff and funds to the respective Zila Parishads. Similarly, the District Industries Centres dealing with small scale industries in urban areas need to be merged with PRIs.

The experience with substitutes for local bodies, like district level agencies for development, which in theory were not susceptible to political influences, has been far from satisfactory. Commentators are by and large in agreement that they are influenced by political structures, their record of delivery of services is very poor and the waste of national resources in implementation by them is enormous. Above all, they are singularly deficient from the point of view of accountability. This is because, as agents of State Governments, they are neither responsive to the voices in the district/taluka/villages nor to the demands at the highest level of Public Accounts Committee of Parliament

### **Performance Audit Reviews**

Results of performance audit reviews on rural development programmes implemented by such district agencies of State Governments have been reported over the past two decades to both Parliament and State Legislatures. Deliberations of Public Accounts Committees have led to many useful recommendations for refinements in policies and guidelines for programmes. Union Government has sincerely acted on such recommendations to effect improvements in them. However, innumerable *irregularities* pointed out in such reviews have not been acted on with the same seriousness. Despite protestations of Departments of Union Government to monitoring of programmes, the fact is that they have little control over departments of State

*Individual decisions should not be subject to review or revision by the bureaucracy or by the Ministers at the State level*

Governments. The only instrument in their hands is the power not to release funds and this is also compromised by the need to exhaust budgeted amounts by the end of the financial year. References of Union departments on audit observations related to irregularities go unheeded by State departments. Thus, such district agencies for development elude accountability both to the people in a district as well as to the State Government.

### 9.3 Municipal Finance Reforms

The legislations by States passed in 1994 in conformity with the Constitutional Amendments dealt with the mandated institutional structure of the municipalities, leaving associated management aspects unchanged.

Apart from the electoral composition of the municipal councils, the 74<sup>th</sup> Amendment provides for additional membership from among:

- Sitting members of the State legislature and Parliament whose constituencies cover the municipal area.
- Chairpersons of the ward committees of municipal corporations with a population of 3 lakh and more.
- Nominated experts without voting rights. The creation of the wards committees at the ward and zonal levels in the larger cities is a novel feature. It provides opportunities for decentralisation of municipal services and larger involvement of the citizens in municipal affairs.

The 18 functional areas for possible devolution to the municipalities do not always correspond to the Central, State and their Concurrent subjects listed under the 7<sup>th</sup> Schedule, eg.

- Slum improvement
- Cultural promotion

- Urban poverty alleviation and
- Environmental protection

There are also significant omissions in the 12<sup>th</sup> Schedule – eg. basic health care and primary/secondary education – although these responsibilities are suggested for delegation to the rural panchayats under the parallel 11<sup>th</sup> Schedule. It is up to the State Governments to delegate functions for the municipalities beyond those indicated under the 12<sup>th</sup> Schedule. Moreover, even when a function or sub-function is delegated to a class of municipality, the State Government does not vacate its operative jurisdiction from that area with the result that all municipal functions in effect become concurrent. There is no municipal tax list along with the indicative functional list; this has been left to the State Finance Commission to recommend.

The Municipal fiscal structure is characterised by three distinct patterns as a legacy from the three presidencies in the British period:

- Predominance of octroi – a municipal import duty – and a subsidiary property tax, with nominal State transfers (Bombay pattern covering western and north western States).
- Property tax as the major tax, supplemented by entertainment and show taxes, non-tax revenues and limited State transfers (Madras pattern covering Tamil Nadu and Kerala).
- Property tax as the main municipal tax and major dependence on State transfers (Bengal pattern, covering the remaining States).

Due to the abolition of octroi in Andhra Pradesh, Karnataka, Madhya Pradesh, Uttar Pradesh, Himachal Pradesh and Jammu and Kashmir, the State composition of fiscal structures have undergone change in recent

*Even when a function or sub-function is delegated to a class of municipality, the State Government does not vacate its operative jurisdiction from that area with the result that all municipal functions in effect become concurrent*

years. Exploitation of municipal property taxes is problematic due to frozen valuation base on account of rent control; this is sought to be neutralised by a system of presumptive tax with the municipal role limited only to tax collection. Non-tax revenues may not increase due to the perspective of privatisation of municipal services. The future of municipal finances would be mainly influenced by :

- Compensation arrangements for octroi abolition
- Pace of reforms in rent control
- Rationalisation of State transfers

The District and Metropolitan Planning Committees, provided for by the Constitutional Amendment are expected to plan for matters of common interest between panchayats and the municipalities, especially planning of physical and natural resources, infrastructure development and environment conservation. The State Governments are to identify the functions for these planning purposes. If these planning functions are more than the municipal revenue functions, then there would be need for major assistance by State and Central Government. The existing separation between urban development and municipal maintenance tasks may have to be re-considered.

While the reliance on State and Union Government for assistance is likely to increase, the composition of district and metropolitan planning committees is heavily weighted in favour of elected members of panchayats and municipalities. The State and Central Government representatives would find it difficult to contain over ambitious planning. The States attempted to create separate district urban development authorities (DUDA) but in the new legislative scenario these may lose their significance.

It is difficult to gauge at present to what extent the capital required for municipal development would be sourced from the market rather than from directed credit of plan assistance. Credit-worthiness may be a problem, especially for municipal councils and nagar panchayats. Therefore, capital grants from plan assistance is likely to be a growing proportion of total receipts of municipalities.

It appears that the emergence of a municipal political executive can be expected as a clear implication of the Constitutional Amendments and conformity legislations by States. The nature of State Government–Municipal relations are changing. Apart from administrative breakdown, like ‘constitutional breakdown’ in the context of Centre-State relations, dissolutions or supersessions would be difficult and are likely to be subjected to judicial scrutiny.

State control of municipal finance is exercised through the State examiner of local fund accounts except in Bihar and West Bengal where this operates under the CAG’s administrative control. Municipal audit is conducted at present from the point of view of ascertaining authorisation and regularity rather than that of propriety. The general impression about the functioning of the examiners of local fund accounts is that they are not effectively checking accounts from the point of view of detecting frauds in receipts, misappropriations and errors of classification. Performance audit is important in the context of urban development. The proportion of population in urban areas has increased significantly over the past decades; though metropolitan growth has slowed down, municipal council areas are still burgeoning. With greater involvement of Central finances in poverty alleviation schemes (eg. employment generation/slum improvement) in urban areas, it is necessary that

*The District and Metropolitan Planning Committees, provided for by the Constitutional Amendment are expected to plan for matters of common interest between panchayats and the municipalities*

certification of accounts, transactions as well as performance audit of municipal councils by CAG be introduced.

Constituency accountability requires greater involvement of the citizens in the activities of the municipalities. Information sharing to be stipulated by legislation, citizen's access to municipal services by specifying their entitlements and involvement in decision making by providing opportunities to citizens are ways of fostering such accountability. The creation of ward committees in the larger municipalities should help in this direction. Such provisions for municipal council areas and nagar panchayats may also be tried to uphold the neighbourhood principle.

#### **9.4 Accountability, Accounts and Audit**

Accountability is a much larger issue than merely a matter of accounts and audit reports. Unless these reports are acted on by appropriate fora to judge the delivery of services or bring errant officials to book and the community or community/country benefits from the audit exercise, accountability is not secured. The ability of households of a village or a few villages to decide on the merits of their elected representatives and to bring them to book in case of malfeasance or inability to deliver appears at first sight to be simpler than the elaborate processes of accountability at the district, State or national levels. However, this depends, first of all, on structures of domination which might stifle the voices of the underprivileged sections in a village. For all practical purposes, the panchayat is identified with the office of the Pradhan/Mukhia/Sarpanch/Adhyaksha. Second, it depends on whether the format of records and accounts to be maintained are easy to understand or so complex that unraveling them becomes a matter of special education.

The requirements are simple when a local body depends only on its own resources. Where it depends on State funds or centrally sponsored schemes, the donors naturally impose own requirements of accounting which can make the accounts formats voluminous, if not complex. It is reported by several States that the accounting formats are cumbersome and the prescribed number of registers and other books of accounts are so many that accountants find it difficult to cope with the work. Moreover, there is paucity of staff; often, one accountant works for a number of gram panchayats.

The point of departure for a discussion on accounting and audit issues must be a recognition of the fact that the framework of audit concerns and methodology have undergone a sea-change in the last fifty years. In the pre-1950 days, audit of local authorities was globally distinguished from audit of commercial concerns. Audit of local authorities was primarily concerned with detection of fraud, misappropriation and misclassification. The need for gauging performance in providing regulatory or development services was soon felt. Techniques to evaluate performance were developed. The framework of concerns shifted again and auditors started stressing certification of annual financial Statements to provide an assurance to the citizens/tax-payers/ratepayers that systems of control were in place and the figures in financial Statements presented the 'true and fair' view. In other words, the difference between audit of commercial concerns and audit of local authorities is no longer viewed as very important.

The published financial Statements remain the single most important vehicle by which local authorities/bodies can demonstrate accountability for the stewardship of public money, ie. how the various resources available to the authority/body have been

*Constituency accountability requires greater involvement of the citizens in the activities of the municipalities*

applied and whether it complied with its statutory obligations, and for performance in the provision of services ie. how the resources have been actually used.

### ***Local Funds and Public Knowledge***

It was generally agreed that as wide publicity as practicable should be given to the accounts of local bodies and that they should be published in such form as to be intelligible to ratepayers of average ability but without special knowledge of accountancy. There should be an obligation on local bodies to devise a means of providing the electorate with financial information about services in reasonably simple and straightforward terms. Local bodies should be required to maintain a variety of separate funds and accounts for different functions and activities. In many cases all that is entailed is the need to maintain a separate record of income and expenditure for control purposes.

The financial accounting and reporting of local authorities should be governed by a framework comprising statutes/regulations/orders, forms of accounts to be prescribed by the State and any other professional guidance body. The most important requirements in this context should be those that relate to the preparation, audit and publication of Statements of accounts. The proposed Regulations/orders should cover four main areas: the keeping of accounts; internal and external audit matters; the public's right to inspect the accounts and question the auditor; and the publication of Statements of accounts, in addition to the preparation of the Statement of accounts themselves.

It is increasingly being realised in India that apart from an annual performance report including a financial Statement, there should be no demands on panchayats to send innumerable returns and reports even where a large quantum of funds for social sector

programmes devolve on them from the Union/States. Audit certification for such an annual report should meet the requirements.

The system of accounts prescribed in 1950s in all the States for Panchayati Raj institutions was the government system of noting receipts and payments and maintaining primary books of accounts. Most States had separate Acts governing the audit of local funds which provided for an 'independent' departmental auditor, usually designated as Director, Local Fund Audit. The audit of local bodies was not vested with CAG under the CAG's (DPC) Act, 1971. Except for Examiners of Local Funds working under CAG's administration in West Bengal and Bihar on an entrustment basis, the audit of Panchayati Raj institutions was not vested in CAG.

The Constitutional Amendments in 1992/93 left the provisions regarding accounts and audit of panchayats and municipal authorities to be decided by State Legislatures. The State legislations show that by and large the old framework of concerns of the 1950s has simply been re-iterated. The concept of the annual performance report with its financial Statements has not been introduced. Karnataka is the only State which has provided in the State Act for audit certification of Zila Panchayats and Taluk Panchayats by CAG. In fact, very little discussion on this subject has occurred in other States though the question of putting in place a system of accounts and audit in keeping with best practices across the world is an important one.

Moreover, audit has been vested with departmental auditors of State Governments. The comparative advantages/disadvantages of departmental versus professional auditors have long been recognised and may be summarised as shown alongside.

*There should be an obligation on local bodies to devise a means of providing the electorate with financial information about services in reasonably simple and straightforward terms*

A qualified cadre of accountants and auditors for the express purposes of accounting and audit certification of panchayat samitis and gram panchayats needs to be created for deployment by professional firms of chartered accountants.

### **Zila Parishad Audit**

We now turn to the audit of Zila Parishads. Social sector programmes are critical not only for local but also *macroeconomic* growth. Adequacy of finances for rural/urban development would require large doses of funds to continue to devolve from the Union and States to the district and sub-district levels. CAG has a mandatory responsibility to watch expenditure out of Union or State funds.

At present, funds for social sector programmes from the Union and States flow to registered societies at the district levels, be they DRDAs/Saksharata Samitis/Fisheries Development Agencies/ Women's Development Agencies etc. The arrangements for their audit and accountability are unsatisfactory both from the point of view of local residents as well as Union and State Governments. While their accounts are certified by chartered accountants, transactions audit is conducted by CAG. This disjuncture is not conducive to proper audit, comprehensive reporting and accountability. The possible merger of these district agencies with Zila Parishads to implement what the Planning Commission termed 'district schemes' involving approximately 40 percent of total Plan funds would require putting in place proper arrangements for CAG's audit of expenditure on sponsored programmes implemented by local bodies.

Certification and transactions audit of the accounts of Zila Parishads and Municipal Councils by CAG is essential to ensure that social sector expenditure by Union and State

Governments are not reduced to being merely political slush funds<sup>13</sup>. We cannot look at the modalities of audit only from the point of view of devolution of funds to panchayats for sponsored schemes of Union/States because they are envisaged not just as development agencies but as the third tier of government as well. Local bodies need to be helped to secure account of their revenues and develop a culture of accountability to the people they serve in their areas. Since accounts of expenditure and activities undertaken by panchayats below the district level should feed into district level accounts (however, in Madhya Pradesh this is not likely to be so – gram panchayats are shortly being directly funded by State Government), their veracity is extremely important. It is not

*Social sector programmes are critical not only for local but also macroeconomic growth*

<b>Against professional auditors</b>	<b>For professional auditors</b>
1. Professional auditor does not have the judicial/executive powers of the departmental auditor which is sometimes necessary to make an audit effective	Local bodies do not feel they are under control of a government department
2. Panchayats may not be able to afford the fees	Has comprehensive experience of commercial practice in accountancy and his knowledge in this respect can help the local authority to adapt their accountancy methods to modern commercial usage
3. Does not have complete independence	A professional auditor can usually arrange to commence his audit during the period of the year for which the accounts are being prepared and the audit can then be closed within a short period after the conclusion of the financial year. Useful for detection of errors/ frauds and timely conclusion of audit.
4. Seldom has advantage of auditing accounts of more than one or two local authorities and cannot compare the systems and operations prevalent in the field	
5. Not so well versed in municipal or panchayat financial transactions	

<sup>13</sup> Vijay Joshi and IMD Little, India's Economic Reforms, OUP, 1994

*Proper functioning of the Gram Sabha could ensure a vibrant democracy with a great degree of transparency and accountability*

sufficient for panchayat samiti/gram panchayat accounts or utilisation by them of funds granted by Zila Parishads/Municipal Councils to be certified by State Government appointed auditors (departmental or professional). Complaints or comments of local taxes/ratepayers at Gram Sabha level, where accounts of gram panchayats are to be authenticated must be *heard* by CAG before certifying accounts of the Zila Parishad/ Municipal Council.

While CAG is able to hear the complaints of citizens voiced through legislatures or the press and take these into account in the course of audit of State and Union Governments, the voices of persons below the district level on matters of development expenditure do not get well reported. The intention of the 73<sup>rd</sup> Amendment in laying down functions of Gram Sabhas and provisions of State legislations which require Sarpanches/Mukhias/Adhyakshas/Pradhans to place the accounts of gram panchayats before the Gram Sabhas for authentication would be diluted if it is not recognised that the extent of their dissatisfaction with the accounts must be independently heard by CAG.

An important factor for the success of the Panchayati Raj system is the need for transparency in the functioning of these bodies. Panchayats being closer to the people, their right to information and accessibility to the Panchayats must be ensured. This issue was discussed in a meeting of PR Secretaries of States and it transpired that except in a few States such as Himachal Pradesh, Madhya Pradesh and Tamil Nadu, orders emphasising transparency have either not been issued, or these are incomplete. It was decided in the meeting that each State may consider passing orders highlighting three different aspects of transparency.

- First, the Panchayati Raj Institutions (PRIs), especially Gram Panchayats, should display all vital information pertaining to development projects, especially receipt of funds and how they are being spent, in the Panchayat Offices or on a prominent board outside the school, for the information of the public.
- Second, all relevant records should be open to inspection.
- Third, members of public should also be able to obtain photocopies of documents pertaining to development projects as also matters of general public interest by paying a nominal charge. In particular, all bills, muster rolls, vouchers, estimates and measurement books, the criteria/procedure for selection of beneficiaries, as well as list of beneficiaries should not only be available for inspection, but photocopies of these relevant documents should be given on demand from a convenient place, such as Block or Tehsil Office.

The Constitution (73<sup>rd</sup> Amendment) makes a provision for a Gram Sabha in each village, to exercise such powers and perform such functions as the legislature of a State may, by law, provide. This is a provision of great import in so far as the Gram Sabha constitutes the entire electorate to whom all elected representatives in the local bodies, State legislature as well as Parliament are accountable. Proper functioning of the Gram Sabha could ensure a vibrant democracy with a great degree of transparency and accountability. However, several States have given short shrift to the institution of Gram Sabha and vested them with only ritualistic powers of consideration of annual accounts, administration reports, audit notes, etc. of the Gram Panchayat. Even the suggestions and recommendations made by the

Gram Sabha could be ignored by the Gram Panchayat. For this to be averted, it is necessary to mobilise public awareness and demand that accounts be made available to the citizenry. The national people's Campaign for the right to Information (NCPRI) has been an important experiment in this report, building up from local mobilisations for public accountability in Rajasthan (see Box 9 on Jan Sunvai).

Keeping the twin requirements of watch over funds for schemes sponsored by Union/States as well as receipts and expenditure of panchayats as institutions of self government in their own right, we suggest an amalgam of audit arrangements. State Legislatures may provide under the Panchayati Raj Acts for internal audit by LADs concerned only with checks against fraud, misappropriation and misclassification. Certification of accounts of gram panchayats/panchayat samitis/nagar panchayats should be a task performed by professional auditors. Certification of accounts of Zila Parishads should be vested in CAG.

Courts of Audit should be set up in each district by CAG to check whether accounts of sub-district levels are properly feeding into Zila Parishad/Municipal Council accounts, hear complaints of Gram Sabhas against certified accounts of Gram Panchayats or to note comments by professional auditors, and then certify the district bodies accounts. They may order recoveries/disallow any items from being reimbursed by State Governments/ Central Government. They may exercise powers of attaching the property of any person found guilty of fraud or misappropriation. Summary procedures should be devised for this. Such powers must be laid down in amendments to the CAG's (DPC) Act, 1971 and not the in the conformity State Acts.

As noted earlier, it is necessary to distinguish issues related to irregularities from propriety or performance issues. The former need to be treated swiftly and in summary fashion at the district level itself. The latter can be reported to Zila Panchayats/Municipal Councils or State and Union legislatures for discussion on the

#### BOX 9

##### **Public Hearings and Accountability on Demand: Jan Sunvai**

The experience gained from the experiment on Jan Sunvais (Public Hearings) in Rajasthan is instructive in this context. In 1987, some social activists started working with rural workers engaged in drought relief works at a village named Devdungri, near Beawar in Udaipur District. They registered themselves as a society called Mazdoor Kisan Shakti Sangathan in 1990 to fight corruption related to departmentally implemented public works programmes. They supported struggles of rural workers on issues of non-payment of full minimum wages. Soon they went on to raise similar issues about fabricated muster rolls in works implemented by gram panchayats under Jawahar Rozgar Yojana, a centrally sponsored scheme. In 1994 their work entered the phase of a movement for Jan Sunvais in villages to fight corruption in gram panchayats and educate people to demand accounts as well as accountability. The movement, though local, had State-wide repercussions.

The mode of public hearings initiated by MKSS commences with the gathering of people in a village by beat of drums and then a demand for all documents related to works undertaken with public funds. Muster rolls and bills/vouchers related to materials and transport are read out to the people gathered. These are questioned by the village residents and often found to be fictitious/incomplete. The Sarpanches in several villages have paid up the recoveries demanded by the people and Jan Sunvais have been highly effective in mobilising villages on the issues of

transparency and accountability. In some villages Sarpanches were not willing to be chastened. Criminal cases had to be sought to be registered by MKSS and these involved them in harangues with the police, Collector and so on.

It is not as if people were unaware in the past that muster rolls are fudged and materials misappropriated; but these were general doubts and fears and in the absence of access to hard facts they were unable to take any preventive or remedial action. The Jan Sunvais changed this. Public officials like Sarpanches or BDOs/DRDA officials were always invited to defend themselves. While the fair practices required for meaningful Jan Sunvais have been established through the experience gained by the experiment in social audit, the stand taken by many officials appearing as defendants is that they are accountable not to the mostly illiterate gathering of village folk but to their superiors in a hierarchy of command or to government auditors. This is significant because it highlights the fact that clarity about the notions and mechanisms of accountability pose a major problem at an operational level.

Public officials, including Sarpanches, are naturally accountable to the people they serve, to the hierarchy of officials controlling them as well as to elected bodies of people's representatives within a framework of law/rules/regulations. Institutional arrangements that provide for accountability in the context of panchayati raj, therefore, need to be defined and spelt out with a judicious eye to meet these requirements.

subject and appropriate recommendations and action by governments concerned.

## **10. Women in Power (Security through Leadership)**

### ***Where Do We Go From Here ?***

The available evidence suggests that it is hard to disaggregate the impact of women representatives on the functioning of panchayats, overlaid as it is with a wide range of limiting factors : from the social reality of caste and class inequalities, on the one hand, to the institutional imperfections of the panchayat structure, on the other. Nonetheless, it is clear that both participation and exclusion, as detailed in the foregoing pages, have had a significant impact, in terms of both the subjective dimension (viz., the way in which women see themselves in their new roles), as well as the objective dimension (viz., the actual developmental impact).

### **10.1 The Developmental Consequences of Women's Representation**

The new panchayats are designed primarily for the planning of programmes of economic and social justice, and the implementation of schemes that are entrusted to them. They also contained provisions for the representation of women, but the seeds of their 'failure' or inadequacies can hardly be blamed on the inefficacy of women representatives.

They appear rather to be contained in the fact that the implementational aspect of the founding charter has taken primacy over the planning aspect. As local-level planning remains largely neglected, panchayats have tended to function chiefly as delivery systems, intended to more effectively implement existing, often centrally devised, development programmes. The assumption underlying this coheres with the orthodoxy that the only flaw of rural development

planning in India has been implementation failure. (Chakravarty, 1987)

It is difficult to wash away the imprint of decades of centralised planning and bureaucratic implementation of these plans. But it is surely even more difficult to accomplish this through elected institutions which are inadequately endowed with the necessary authority, which subsist in the shadow of existing parallel structures of development administration, and many of whose members belong to socially disadvantaged groups, with neither the expertise nor the training to be able to assert themselves.

A reconsideration of the technocratic and centralised model of development has not, of course, been a serious governmental priority, but the new direction being shown by women-dominated panchayats should certainly draw attention to the many inadequacies of the traditional approach to planning for development. Primary education and health receive much more attention at the hands of women. So also do the conservation, as well as sustainable use, of common property resources like forests and ponds.

Few studies of the post-1992 period have attempted to objectively evaluate the developmental impact of women in panchayats. More often than not, they poll the women representatives themselves for *their* perception of the improvement in basic services, the performance of poverty alleviation programmes, the successful completion of development work, and so forth.

On the whole, the responses range from a feeling of satisfaction about moderate improvements to dissatisfaction with programmes like the Jawahar Rozgar Yojana or the Indira Awas Yojana. The more important conclusion that is suggested by such data is that panchayats are not particularly involved in the processes of planning or

*As local-level planning remains largely neglected, panchayats have tended to function chiefly as delivery systems, intended to more effectively implement existing, often centrally devised, development programmes*

decision-making in such development programmes. Even as development implementors, their role is fairly limited. This is less a function of low levels of awareness, and more that of inadequate devolution of powers and resources. After all, it is not as if there are no claimants for programmes of poverty alleviation or women and child development. With little financial or administrative autonomy, panchayats can at best aspire to being implementors of development schemes conceived at the central or State capitals, hedged in by all the conditions and procedures that go with these. As such, their developmental impact is likely to be limited.

### **Success Stories**

Despite these limitations, impressive successes – in terms of schemes for drinking water, playgrounds, and schools - have been recorded by those panchayats in which women are active participants. Pre-Amendment all-women panchayats in Maharashtra already had a fine record of adopting need-oriented, ecologically sustainable programmes, outside the purview of traditional politics. Thus, addressing water scarcity was the first priority, with extra school-rooms, community toilets and smokeless stoves being the other major efforts. (Datta, 1998:114-15) In the post-Amendment phase, too, the all-woman panchayat of Kultikri in West Bengal has played a leading role in the literacy campaign of the district, effected a substantial improvement in the primary health infrastructure, raised a large sum of money by leasing some village ponds for pisciculture, and set up training-cum-production centres for women. (Mukhopadhyay, 1995:1284-85)

### **10.2 The Emancipatory Impact of Women's Representation**

In the literature on women and development, there is a well-established distinction

between strategic gender needs and practical gender needs. Caroline Moser has argued that *strategic gender needs* are the needs that women identify because of their subordinate position to men in society. Through issues like the division of labour, power, domestic violence, and women's control over their bodies, they challenge women's subordination to men and enable them to work towards achieving greater equality. Strategic gender needs are contrasted with *practical gender needs* which are a response to immediate perceived necessity. They address issues like water scarcity, health care, employment, and do not challenge the subordination of women to patriarchal structures in society. (Moser,1993) What does the evidence on women in panchayats suggest in this regard?

### **People's Perceptions**

Several studies which have surveyed the changing perceptions of women representatives, have found that they are conscious of, and pleased about, the perceived enhancement of their status in the family and the local community. A sixty year old sarpanch of a gram panchayat in Haryana said, "I feel honoured when people call me 'Sarpanch Saab'. They give me a lot of respect." (MARG, 1998:169) Many women have said that their husbands and family members too have gained in prestige. In fact, relationships within the family are getting transformed as their husbands have now begun to seek and take their advice, which is a radical departure from past practices. Even outside the family, they are now consulted on village matters. In some cases, they find a new identity as they come to be known by their own names rather than those of their husbands. The perception of change in status varies. The more patriarchal the society, the more likely it is that the woman's role would continue to be defined by men. Nevertheless, 72 percent of women

*Several studies which have surveyed the changing perceptions of women representatives, have found that they are conscious of, and pleased about, the perceived enhancement of their status in the family and the local community*

representatives in Madhya Pradesh and almost 90 percent in Rajasthan perceive an enhancement of status. However, the overwhelming majority of these perceive their enhanced status in terms of the holding of the post, rather than in terms of the power it gives them to work for the benefit of the local community. One panch in Haryana said she had sat in a car for the first time in her life, something that would never have happened if she had not been a panch!

Many women also perceive a change in the attitude of people belonging to their own as well as other castes: thus, OBC women point to the number of invitations they now get to weddings as an indicator of their new status. SC women do not perceive much change in the behaviour of people of higher castes towards them, though one scheduled caste sarpanch in Jhabua district in Madhya Pradesh, said that people no longer expect her to sit on the floor, but offer her a seat at the same level as themselves. A new sense of self-confidence is perceptible, and consequently a change in lifestyle and behaviour patterns.

Perhaps the greatest potential for transformation is being wrought by the experience of women in panchayats, as they come to recognise the handicap of education and literacy. This has an impact on the family, the importance of which cannot be underestimated. The three-State CWDS study records that many women report a change in the customary practices relating to the education of children, especially girls; the age of marriage; and dowry. Tribal and dalit women are seen to manifest such attitudinal shifts more strongly than others. There is also a positive impact on the way in which the division of labour within the household is organised. With women taking on responsibilities of panchayat work, there is a greater sharing of household and livelihood responsibilities by husbands as also other members of the family.

It is not, therefore, surprising that a high proportion of women representatives say that they would like to contest elections again, and a few even assert that they would like to contest for positions of a higher level than the ones they presently hold. The levels of aspiration in this respect are even higher for dalit and tribal women, which is surely a positive sign of empowerment.

Community responses are also encouraging, as the involvement of women in panchayat work is seen to have effected a reduction in corruption and favouritism; a greater awareness of education; and even a greater recognition of women's rights. In Bilaspur, in particular, 68 percent of those surveyed said that the most positive impact has been in terms of the greater importance that is now attached to education for girls. 50 percent claimed that untouchability has decreased or disappeared, consequent upon large numbers of scheduled caste women coming into the panchayats.

### ***Strategic Gender Concerns***

The evidence on gender and decentralisation in India thus suggests that while women have played a positive role in addressing, or attempting to address, a range of practical gender needs, their impact on strategic gender needs is not remarkable. However, even in respect of strategic gender needs, we find some positive and promising shifts. We have seen already that many women entering panchayats have given up the veil. Family relationships, as also the division of labour within the household, are increasingly being renegotiated. Women now find that they and their opinions receive greater respect both within and without the household, and that their influence on decisions regarding the age of marriage for their children or dowry has now increased. The recognition of illiteracy as a handicap leads to a greater awareness of the

*Many women also perceive a change in the attitude of people belonging to their own as well as other castes*

importance of girls' education and higher levels of aspirations for girl children. The same women who needed to be virtually coerced to contest the election are today eager to attend panchayat meetings themselves, and to participate in processes of decision-making.

### **10.3 Policy Reform and Capacity-Building**

The issues not addressed in the Constitutional Amendment, and the deficiencies and lacunae in the Conformity Acts of the States have already been discussed at some length. It is clear that there is a need for greater specification in the powers and functions of the Gram Sabha, as also in the division of powers and resources between the three tiers and their inter-relationship. There is a need for greater devolution of powers, for more clearly stipulating the relationship between the State administration and the panchayats at various levels, and for freeing elected bodies from the control of State departments and functionaries. The relationship between functions and finances is another area that has suffered greatly from neglect and inattention. In functional terms, responsibilities are entrusted to panchayats for local development works, but the funds which could be deployed for development are distributed between centrally sponsored schemes, State governments, and Members of Parliament (under the Member of Parliament Local Area Development Scheme). Clearly, there is a strong case for more untied funds being made available to the local bodies. Above all, there is a need to recognise the minimum entailed by the principle of decentralisation, and so to create the conditions under which the panchayats can actually be involved in their constitutionally mandated task of preparing plans for economic development and social justice, instead of being confined to the identification of beneficiaries for centrally sponsored schemes.

One way of doing this is to effect a shift from sectoral planning to area planning. Area plans should be formulated by the panchayats at the village level, integrated by the panchayats at the two higher tiers, and finally harmonised with sectoral plans at the State level. (Jain, 1994:132-33) This will undoubtedly shake up the entire structure (from the local to the central level) of planning as presently constituted, but may be the only way in which to realise the promise contained in the Constitutional Amendments.

These appear to be the minimally necessary conditions for effective decentralisation. The tasks of democratisation are equally challenging, though they cannot be attempted exclusively through legislative fiat or policy reform. Having guaranteed the entry of women, as well as members of the scheduled castes and tribes, in the new panchayats, the task of capacity building, so as to strengthen their participation in these institutions, remains to be taken seriously.

#### ***Training Programmes***

Though many training programmes have been conducted for women representatives, they appear to be severely wanting in their conceptualisation, designed chiefly to familiarise women with the procedures and laws relating to panchayats. The absence of literacy and formal education, however, remains a major obstacle. So does the absence of any consciousness-raising component that can help women to identify patriarchal practices, discern the gender biases in policy, and build alliances and networks with women's movements and organisations. Conscientisation about caste discrimination is also necessary. Even male representatives – of all castes and social backgrounds – need to be trained in terms of gender-sensitivity. There are, of course, limits to the

*There is a need for greater devolution of powers, for more clearly stipulating the relationship between the State administration and the panchayats at various levels*

*The participation of women in panchayats, as much as their frequent exclusion from the actual proceedings in these bodies, has created an awareness of alternative roles and a more positive self-image than those internalised over a lifetime of patriarchally-defined gender identity*

efficacy of even the most well-designed training programmes, for women representatives labour under multiple constraints, patriarchal and social, not all of which can be redressed by training. These constraints can only erode over a period of time, and the most effective source of such erosion will, slowly but surely, be women themselves.

As such, *policy reform for more effective decentralisation must be accompanied by efforts to enable and ensure the more meaningful participation of women and other groups disadvantaged by their caste or class location.* For women in particular, this entails two pre-requisites: education and political mobilisation. In the tasks of political mobilisation, political parties may have a less useful role to play than the women's movement and even some types of non-governmental initiatives. Thus, an organisation in Himachal Pradesh has worked with over 300 Mahila Mandals, and sought to bring them on the same platform as the panchayat raj institutions. (Sharma, 1998:40) Similarly, SEWA's recent campaign on water in Gujarat has worked, in the first instance, through the Gram Sabhas, to identify the water sources in the village, and then mobilised and trained the women of the villages for the development and sustainable use of water resources. (Mishra, 1999)

#### **10.4 The Long, Slow but Irreversible Route to Empowerment**

Despite the many negative trends (such as surrogate representation and tokenism) exhibited in the practice of women's representation in panchayats, it is clear that panchayats are performing a transformatory role, albeit one that is slow. The consciousness-raising function of the new PRIs is indubitable. Even the women who speak of

their powerlessness have, for the first time, squarely recognised it. It is true that, as of now, this recognition pertains to powerlessness in the domain outside the domestic, but it is surely only a matter of time before powerlessness within the walls of their homes also begins to get recognised. Likewise, the recognition of illiteracy as a handicap is the first step towards combating it. The transformatory potential of such trends is unmistakable, and their importance cannot be underestimated.

The attempt to empower women through quotas in local institutions clearly does not alter the pre-conditions in terms of, say, providing women with access to land, but it does provide them with a non-material political resource through which they can, over time, bring about a change in the norms and values governing the distribution of material resources. Their recognition of the importance of education for girls and a later age of marriage, for instance, may be the prelude to the assertion of other kinds of equality-claims. Similarly, the participation of women in panchayats, as much as their frequent exclusion from the actual proceedings in these bodies, has created an awareness of alternative roles and a more positive self-image than those internalised over a lifetime of patriarchally-defined gender identity. Just as democratisation is a process, so is empowerment. *Neither agency nor entitlement – however circumscribed by male domination – are given in perpetuity. They can be negotiated and altered by political action and social change.* The participation of women in panchayats is certainly one mechanism through which such change can take place, and the strategic gender interests of women advanced.



## Possible Directions for International Support

### 11. Strengthening Decentralisation: UN Initiatives

#### 11.1 National Priorities

Decentralisation of development responsibility is a basic tenet of Cooperative Federalism and the Ninth Five Year Plan. Given the ongoing consolidation of the institutional framework of Panchayati Raj laid down by the 73<sup>rd</sup> and 74<sup>th</sup> Amendments, the challenges before us now are the correction of imbalances in local, patriarchal power structures, and building capacity for local governance through adequate devolution of funds, functions and functionaries. In this light it would also be necessary to refocus international cooperation towards decentralisation imperatives. In this context, a “Convergence Approach” for social service delivery by linking user groups for sector interventions with PRIs/ULBS, and indeed decentralisation within UN organisations would be the key bridges between current initiatives with future interventions.

The key elements of a strategy for international support to decentralisation would be the placing of gender concerns at the forefront, and support to initiatives such as the Right to Information which enable increased participation of the poor in local governance and management of community assets and institutions.

#### 11.2 Towards Decentralisation: Results from a UN Decentralisation Mapping Exercise

A decentralisation mapping exercise was carried out in 1999 to benchmark and evaluate the status and prospects of UN system support to decentralisation in India. The issues covered in semi-structured interviews and groups discussions included the following:

- The approach to decentralisation
- Current status of programmes related to decentralisation / community based action.
- Experience with participatory programming, monitoring & evaluation; concerns regarding decentralisation; blueprint for the future, especially with regard to the forthcoming United Nations Development Assistance Framework (UNDAF) and operationalising joint action.

Salient issues arising from discussion were as follows:

- Every UN agency is committed to decentralisation, yet there was then no common definition or approach to decentralisation. For some agency decentralisation involves working closely with PRIs and ULBs (e.g., UNICEF, UNCHS) ; for some it involves working with community level groups (e.g., WFP, UNIFEM); for some it involves engagement with district planning and implementation (e.g., UNFPA); for others it involves a broad focus on

*The challenges before us now are the correction of imbalances in local, patriarchal power structures, and building capacity for local governance through adequate devolution of funds, functions and functionaries*

*The respondents felt that Decentralisation required gap filling and creation of capacity in the several areas*

governance and partnerships with NGOs and CBOs (ILO, UNDCP). For some agencies, deconcentration or location of offices in States is a part of decentralisation. For most it involves a mix of these. In essence, while the concern for decentralisation is shared, there is a plurality of approaches.

- For each agency, the approach to decentralisation, as with other things, is also based on the dynamics and direction of the government counterpart ministry/agency.

Examples of direct involvement with decentralisation include training of representatives of PRIs and ULBs (especially women members), development of training modules for district planning, direct engagement with district planning, workshops and seminars on decentralisation issues, etc. Examples of indirect linkage with Decentralisation include community based programmes in education, urban basic services, reproductive health, forestry, ICDS, etc. In most of this the “user group” is the basic unit. The content of the programme ranges from training modules to organising workshops and training programmes abroad, participatory planning as well as provision of equipment and materials in some cases.

The respondents felt that Decentralisation required gap filling and creation of capacity in the several areas: more effective devolution of authority including financial powers, improvement in quality of participation especially by the poor through training in participation and leadership for representatives, especially women and the marginalised communities, support to people’s networks especially for advocacy and experience sharing, as well as programmes that help create social capital

in the villages and contribute to livelihood security for the poor.

Some of the suggested areas for intervention:

- Development of a common knowledge base and data inventory for Decentralisation which would pave the way for joint programming and convergence of various initiatives.
- Inter-linkage of gender and Decentralisation initiatives.
- Training programmes for women representatives in PRIs and ULBs.
- Support for networks of women in PRIs and ULBs and community organisations.
- Support to district planning through development of manuals, modules and workshops.
- Linkage with State Finance Commission in effecting financial devolution.
- Linkage with NGOs and CBOs as props for more effective Panchayati Raj.
- Development of database and information system for decentralised planning and implementation.

### **11.3 The Decentralisation Imperative**

While the decentralisation of governance in India launched through the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment seem to have become an irreversible feature of far-reaching consequence, it is an unfinished agenda to the completion of which the UN will contribute: the challenge now is to create an enabling environment for qualitative participation of all groups of the local communities and a decentralised system of government that has –at all levels- the capacity and the resources to meet the needs of the people.

## ***Strengthening Local Governance Institutions***

In a decentralised system, the proximity of decision-makers to the local community provides a powerful opportunity for community insistence on greater accountability, transparency and efficiency in the use of public resources earmarked for development. However, in order to make the most of this opportunity, it is essential to create awareness in local communities and interest in decentralised institutions that offer avenues for active participation.

Several factors arising from economic and social inequalities seriously inhibit the full participation of people, especially women, in local governance institutions at present. Apart from specific quotas and training programmes designed to develop leadership, it is important to implement policies that would reduce the economic dependence of large sections of people on a few powerful individuals. Local governance institutions are much more participatory and effective in regions where State government policies have succeeded in enabling people's participation in the management of natural resources (land, water and forest.) and creating conditions for gainful employment.

### ***Community Management of Basic Services***

Decentralisation provides closer correspondence between the actual needs of people and the provision that is made by governments to meet those needs. "Planning from below" and contextualised resource allocation for basic services would be more cost effective and produce better outcomes. Yet the quality of basic services provided to local communities is directly proportional to the degree of community control and supervision. Responsiveness and accountability to the community on the part of

service providers can be improved by giving local governance institutions authority to monitor performance and impose sanctions. Given India's diverse and segmented social structure, rights of vulnerable sections can be best assured by giving voice to the least advantaged. People's sensitisation to their rights, including knowledge of procedures and the responsibilities incumbent on local governance authorities, requires information dissemination to the public at large.

#### **BOX 10**

##### **UN Assistance to Strengthening Local Government Institutions**

- *UNCHS: Urban Management Programme*  
Building and strengthening the capacity of local government and other stakeholders (Civil Society and Private Sector) to address critical urban problems. [Surat, Bangalore, Hyderabad]
- *UNDP: Capacity Building Programme*  
Building capability of State-level institutions for more effective training of officials and elected representatives of PRIs.
- *UNICEF: Rural and Urban Convergence Projects on Capacity Building in local governments*  
Programme Support to facilitate the building of effective community processes and to train members of panchayats and nagar palikas (ULBs).

#### **BOX 11**

##### **UN Assistance to Community Management of Basic Services**

- *UNFPA: Capacity building in district health administration*  
Capacity building in districts for participatory planning and implementation of Integrated Population Development Programmes in close collaboration with other Government Departments, NGOs and the Private Sector. [In 38 districts in Rajasthan, Maharashtra, Orissa, Madhya Pradesh, Gujarat and Kerala]
- *WHO: Focus on community participation in Primary Health Programmes*  
Improvement of Health Seeking Behaviour of Women and Tribal Communities
- *ILO and UNDCP: Joint Project on Community Based Rehabilitation and Prevention of Drug Abuse at the Workplace in partnership with Industry Associations, Trade Unions and selected entrepreneurs*
- *Joint GOI/UN System Education Programme.*  
Promote community ownership and management of village schools [8 States].
- *Water and Sanitation Programme-South Asia : Support to Sector Reforms in Water and Sanitation*  
Transfer of piped drinking water scheme in Meerut district (UP) from Public Health Engineering Department to registered Water Users' Society.
- *WFP: Project on Initiating Early Complementary Feeding and Increasing Community Participation [Banswara District, Rajasthan]*

### ***Extending Services to the Most Difficult to Reach***

Apart from social mobilisation and gender sensitisation of local communities in general, it is essential to focus attention on those who are excluded from full participation in the decision making process of the community. Democratic decentralisation and processes by themselves cannot correct deep-rooted social and economic inequities. The poor and disadvantaged must be empowered through social mobilisation, access to information, and training in development administration before they can take advantage of reforms which seek to bring government closer to the people. (see Box 13)

BOX 12

#### **UN Assistance to Empowerment of Community Groups in Local Political Processes**

- *UNIFEM*: Support to Networking of Women's Groups and their linkages to Urban Local Bodies in Maharashtra
  - *WFP*: Tribal Development Sub-programme
- Sustainable food security schemes aimed at self-reliance of people from Scheduled Tribes, Scheduled Castes and other backward castes, with active participation of village communities [Orissa, Bihar, Uttar Pradesh, Madhya Pradesh and Rajasthan]

BOX 13

#### **Grassroots Concerns for Panchayati Raj**

The panchayat members of the Alwar district in Rajasthan reinforced the issues raised during a December 2000 workshop on strengthening Decentralisation. Mrs. Leelavati Goel, Gram Sarpanch, said that there is very little development work under way as funds are extremely limited. Problems of that area are related to roads, water and women's development. Mr. Rahguvar Dayal Meena, Pradhan, emphasised that there are very strong panchayat traditions in the Rajasthan villages, and spelt out the need for finances. Mr. Ashok, the Deputy-Sarpanch of Karar panchayat in Alwar, mentioned that in the last five years panchayats have

faced problems as the Patwaris and members of the cooperative societies did not give importance to the Sarpanch. In addition, the approval of the programmes and of the grants has to be given by the Tehsildar and District Collector. Mr. Ramlal Meena, a Gram Panchayat member, pointed out that powers have been given to the panchayat institutions only on paper and not in reality. The panchayats have very little funds and that they have no other source of revenue. The MPs and MLAs have their quotas to spend in their constituencies but here favouritism and politics are in play. Thus, a lot of debts have piled up over the years in each of the village panchayats.

### **11.4 Decentralisation of Development Responsibilities – The Challenges**

Considerable headway has been made since the enactment of the 73<sup>rd</sup> and 74<sup>th</sup> Amendments, which have created PRIs as tiers of local self-rule. Today Conformity Acts have been passed in all the States for which Panchayati Raj was mandated. Many States have devolved functions and powers to local authorities, State Finance Commissions have been constituted and have made recommendations for resource allocations to PRIs. The second round of elections to PRIs are being held and in many States people's planning and district government are now in place. Administrative and democratic decentralisation have been made mandatory, and, consequently, most States have made arrangements for periodic elections to local bodies, and have also indicated subjects over which local authorities would have a say. There are large differences between States in the degree to which these Amendments have been implemented. States like Kerala, West Bengal and Madhya Pradesh are among the front-runners.

The Ninth Five Year Plan document has recognised the importance of decentralisation in the context of development and made the principle of "cooperative federalism" as the cornerstone of its development strategy. In a system of cooperative federalism, the national and State governments devolve powers to and strengthen the authority and competence of local governments at the district, block and village level. Given the repeated failures of vertical government programmes to achieve the desired results, the Ninth Plan document (vol. 1. Ch. 5) proposes to place the panchayats at the very heart of development planning and action. PRIs are the agency of change and loci of decision-making, not merely vehicles for performing delivery services that a distant bureaucracy cannot fulfil.

One can argue that despite the problems of corruption, incapacity, non-participation of the poor and local conservatism, decentralisation is the key strategy for India today. PRIs are now mandated by the Constitution, and the ills they suffer from are also found in the erstwhile bureaucratic-parliamentary dispensation. However, it is important to address the remaining challenges in decentralisation, which are outlined below, through a series of initiatives, which create an enabling policy environment and macroeconomic framework where the poor and marginalised groups are able to participate more actively in the functioning of local democracy.

### ***Correcting Imbalances in Local Power Structures***

There is also considerable scepticism about the ability and feasibility of PRIs as a vehicle for progressive social transformation. It has been argued that transfer of responsibilities and authority to local institutions strengthens local prejudices and the local elite. PRIs are seen as agents of caste domination and gender oppression and subject to surrogate representation, where the elected representatives are actually controlled by local “big men”, and women representatives are a front for their husband, father or son. In many cases, economic dependence is the root of this problem, preventing people from using their political freedom. Consequently, the Ninth Plan document (vol. 1, ch. 1-4) has outlined the national thrust improving livelihoods and food security and empowering women through improved access to land, credit and common property resources (pasturage, water, fuelwood, forest produce, etc.).

### ***Adequate Devolution of Resources, Authority and Responsibility***

Fiscal decentralisation, an essential precondition for adequate devolution of

authority, powers, responsibilities, has not made much headway. There is a large agenda to be addressed for strengthening the revenue base of the third tier of governance. Similarly, more attention is needed to create conditions for more synergy in the operations of the central and State governments, while strengthening the capacity of local governance institutions to progressively overcome the challenges posed by poverty and social inequalities. In this context, the Ninth Plan document (vol. 1, ch. 6) mentions support to State Finance Commissions and support to District Planning as two critical areas for strengthening Panchayati Raj.

### ***Refocusing International Cooperation Towards Decentralisation Imperatives***

In the light of the emphasis placed upon decentralisation in India’s national plans, international cooperation must seek to identify areas of intervention that help lend more substance and credibility to Panchayat Raj and Urban Local Bodies. There is a need for interventions that help counter scepticism and promote local democracy, which is consistent with the objectives of sustainable human development. Many UN organisations have already taken the lead in training and leadership development for community based development action. While international agencies, especially multilaterals, face many constraints in working flexibly with communities and civil society organisation, it is also true that many progressive principles of community involvement and participatory planning have received a boost in internationally assisted projects pertaining to forestry, education, reproductive and child health, etc. A main challenge ahead is creating linkages between user groups and appropriately strengthened local bodies and community organisations. Many international organisations have started to assist convergent community

*A main challenge ahead is creating linkages between user groups and appropriately strengthened local bodies and community organisations*

action, aiming at supporting the local political systems to address development issues in a cross-sectoral way.

The trend towards projects and programmes that directly involve people at the grassroots level increasingly demands a decentralised management of activities in International Development. Many organisations are responding to this challenge by decentralising their own structures, such as UNICEF, WFP and UNFPA by establishing State offices. Further, the development of State and district level programmes with project management counterparts at the State and district levels, such as Joint GOI/UN System Education Programme, UNFPA's Integrated Population and Development Programme and the World Bank's District Primary Education Programme (DPEP) is a step in this direction.

### **11.5 Key Elements of a Decentralisation Strategy**

Through a process of dialogue with civil society and State government partners, international development organisations can formulate a concerted strategy on decentralisation and thereby provide substantial inputs to the national decentralisation efforts. This will involve coordinated initiatives of individual UN Organisations and Specialised Agencies as well as joint initiatives. The strategy will use the experiences and expertise of each organisation and the comparative advantage of the UN System of operating close to the ground and its close working relationships with the Government, Civil Society and other partners.

In a mapping exercise on decentralisation, conducted among all resident UN Organisations in India, key elements of an UNDAF strategy on decentralisation were identified. These elements, presented in the

following, are regarded as most conducive to leverage strong UN support to decentralisation.

### ***Capacity Building at the Local Level***

Capacity building in local political systems is regarded as the area of highest relevance for UN interventions in decentralisation. At the same time, this is the area in which the UN organisations have already conducted numerous activities and hence can draw on different experiences. Traditionally capacity building focused on planning, implementation and monitoring in local political and administrative bodies. Capacity building of elected members of local bodies is important, particularly for representatives, especially women, who are entering the public and political sphere for the first time. Another key area is support to district and panchayat planning through training of PRIs/ULBs and district planning committees. Yet, capacity building should not be confined to formal political and administrative institutions, but include the "demand side" (rights awareness) in local processes – the communities that formulate their needs and exert control over the performance of the local governments, line departments and service delivery. Here, the UN System has an important role to play through strategies such as support to awareness campaigns about legal, political and economic rights and obligations and strengthening the position of Civil Society Organisations (see Box 14).

The mapping revealed that the UN organisations feel the need to approach rural and urban areas in a different way. While in rural areas the governance structures are relatively clearly demarcated and receive support from different development organisations including from international organisations, the urban areas are characterised by unclear division of

*Through a process of dialogue with civil society and State government partners, international development organisations can formulate a concerted strategy on decentralisation and thereby provide substantial inputs to the national decentralisation efforts*

responsibilities, a lack of resources and little awareness about existing problems.

### ***Gender and Decentralisation***

As in Part 2, Decentralisation can be regarded as an important means for addressing gender inequality and empowerment of women. Likewise, a focus on women in capacity building efforts is a powerful strategy to achieve more quality in participation: firstly, through improving the involvement and the clout of women in local political processes and secondly through altering the traditional forms of leadership by supporting the emergence of women leaders. Women should therefore be at the heart of capacity building efforts at the local level.

### ***Advocacy for Adequate Devolution of Resources, Authority and Responsibility***

In order to contribute to the national efforts of improving quantity and quality of participation, service delivery and empowerment through decentralisation, the international community has to target its advocacy efforts at micro-, meso and macro level. Support to people's networking at the grass-

roots level, collaboration with the State Finance Commissions and with various citizen's fora is equally important. Advocacy instruments such as the State Human Development Reports and the India Development Forum should be used to flag key concerns regarding decentralisation.

### ***Information***

Access to information is a crucial success factor for a decentralised system. This holds equally for planing in district administrations as for participation of marginalised groups in local political processes. The promotion of IT for information of people about their rights and obligations is a promising field. Strengthening district and community level data systems and training the users is another area where a concerted international strategy could make a difference. The State Human Development Report initiative led by the Planning Commission and the DevInfo developed by the UN Inter-Agency Working Group on Common Database are promising steps in this direction. It would be important to ensure that these initiatives become relevant for PRIs/

*Decentralisation can be regarded as an important means for addressing gender inequality and empowerment of women*

BOX 14

#### **Issues for User Groups: Linkages with Communities, Civil Society Organisations and Local Bodies**

Interest groups are activity and service oriented. As they are social formations, their definition has to be situational due to the heterogeneous nature of the local society.

Bypassing local bodies have weakened them and not helped them build any capacities. Moreover, if all funds were routed through the local bodies, it would only reinforce corruption and restrict the opportunity available for civic groups. Elected people should be made more accountable, and party affiliations that come in the way should not be taken into consideration.

There is "patronage" at various levels. State level groups often bypass local level patrons, raising issues of exclusion and also that of rights in a democratic structure. There is need to empower civil society to be more responsive to local issues. Given the varied

type of civil society groups, the issue of being accountable to the poorer groups is important. Given the quality and capacity of decision making in PRIs/ ULBs, there is a need to improve their capacities in view of increased responsibilities. However, this should not be a constraint on local level democracy.

At the PRIs/ ULBs levels, not just the president, but others, viz. the ward members and the counsellors, matter. Democracy is more broad based. Nevertheless, it would be counterproductive to depoliticise the inherently political issues. At times, untidy politics opens up space for pro-poor processes to evolve and operate. Participatory structures and processes are different when influencing policy vis-à-vis enabling groups to access resources. It is also

important to understand how high-income corporate groups access resources and influence policy. Local level groups do not usually have access to levels of decision making at the State and national level or forums to influence this.

The recommendations that emerged are:

- Elected representatives should also be held accountable.
- The civil society should be empowered to be more responsive to local issues.
- The capacity and quality of decision-making of the PRIs/ULBs has to be improved.
- More time and resources should be allocated to the PRIs/ULBs.
- There should be a system of right to recall the elected representatives of the PRIs.

ULBs and decentralised programmes at the district and community levels.

### **Convergence Approach for Social Service Delivery**

Many international agencies are already supporting programmes that involve community mobilisation, participatory planning and links with PRIs. It is now important that some of these interventions go beyond the “user group” approach, and forge more effective partnerships of accountability to the communities at the sites of intervention and transparency, moving away from the “vertical intervention” approach. (see Box 15) The procedural dimensions of this would need to be worked out in close consultation with the Government of India and State governments.

### **Decentralisation within the UN System**

Decentralisation of structures within the UN System is an area which offers a large scope for improving the efficiency and effectiveness of its operations. Equal to any other decentralised systems, there is a need for a balance between devolution of resources, authority and accountability within the different layers of UN Organisations (e.g. Headquarters, Country Offices, State Offices). Enhanced international collaboration at the State or district level could lead to great value addition. Inter-Agency Working Groups at the State level as could serve as fora for exchange of information and experiences and for joint activities such as training, documentation and advocacy.

#### BOX 15

### **Community Driven Management: Avenues for Decentralisation**

Panchayats at the village, block and district level represent the community, which also includes user groups, self help groups, traditional and self initiated groups and NGOs. He explained that the community acts as a unit of management by virtue of the fact that water, forests and uncultivated lands are held as common property resources. Community control over local government functionaries has improved accountability.

The problem of implementation in drinking water, watershed, irrigation and forestry programmes arises because participation of the local people is poor, and there is no felt need, pressure to spend substantial resources by a fixed deadline, unclear criteria for selecting areas and villages, and poor maintenance.

To illustrate challenges that India is facing, he referred to the situation existing in Central India, where there is a single cropping system. Because the land productivity is low and vast areas are uncultivated due to soil and water erosion, the tribal population faced tremendous hardship leading to forced/distress migration. It is therefore necessary to integrate land and water management. Social cohesion in rural

Source: Dr. N.C. Saxena

communities makes it easier to promote community participation and fosters NGOs' action.

Development projects can be successful only if they can devote significant resources to people's participation, and recruit staff that has skills in social organisation. Project leaders have to be committed and the donors or senior officials need to exert pressure to adhere to participatory approaches. Incentives for staff members to ensure participation and community influence on the work of the field staff could also help in the implementation of these projects.

The limitations of the legislation facing the PRIs are:

Inadequacies of 73<sup>rd</sup> Amendment Act:

- The powers and functions of *gram sabhas* are not defined.
- Actual devolution of powers to panchayats are left to the discretion of the State governments.
- The expression 'institution of self-government' is not elaborated.
- Re-election is not dependent on the good work done by the office bearers.
- There is no provision for *nyaya* panchayat.

Inadequacies of PRIs:

- Meetings of the *gram sabhas* are held rarely.

- Harassment by block level officials.
- Elected members behave more or less as contractors.
- Despite excellent work by some village level panchayats, many panchayat elected leaders as well as officials see development programmes as an opportunity to make themselves richer.

Inadequacies of State Acts:

- Most States view PRIs as agents.
- No autonomy to PRIs to function as institutions of self-government.
- Political reluctance to give up control over implementation and funds.
- Finances of PRIs remain fragile.

The correct approach to the question “Should the panchayats get a share in taxes or have the right to levy and collect taxes?” would be to provide PRIs with revenue raising powers. PRIs also hesitate to levy and collect taxes.

There is need for a large multi-sectoral project on rural livelihoods based on community management with a mandate to operationalise the Scheduled Areas Act. Effective panchayats/user groups would require an effective district and block level administration, hence need for greater coordination and better governance.

## SELECT BIBLIOGRAPHY

- Athreya, V.B. et al (1998) *Women's Participation in Panchayat Raj: Tamil Nadu*. M S Swaminathan Foundation, Chennai.
- Centre for Women's Development Studies (CWDS) (1999) *From Oppression to Assertion: A study of Panchayats and Women in Madhya Pradesh, Rajasthan and Uttar Pradesh*. CWDS, New Delhi.
- Chakravarty, Sukhamoy (1987) *Development Planning: The Indian Experience*. Oxford University Press, Delhi.
- Datta, Bishakha, ed. (1998) 'And Who Will Make the Chapatis?' *A Study of All-Women Panchayats in Maharashtra*. Stree, Calcutta.
- Institute for Socio-Economic Development (ISED) (1998) *Panchayati Raj and Women's Participation: A Stock Taking. A Case Study in Angul District in Orissa*. Bhubaneswar.
- Jain, L.C. (1994) "Panchayats: Re-orientation and Restructuring of the Planning Process and State-level Departments and Agencies Consequent on Establishment of Panchayats in accordance with the 73<sup>rd</sup> Constitution Amendment" in Amitava Mukherjee, ed. *Decentralisation: Panchayats in the Nineties*. Vikas, New Delhi.
- Kaushik, Susheela (1998) *Participation of Women in Panchayati Raj in India: A Stock Taking. A Study of six States sponsored by the National Commission for Women*, New Delhi.
- Lieten, G.K. (1996a) "Panchayats in Western Uttar Pradesh" in *Economic and Political Weekly*, Volume XXXI, No. 39, September 28.
- Lieten, G.K. (1996b) *Development, Devolution and Democracy: Village Discourse in West Bengal*. Sage Publications, New Delhi.
- MARG (Multiple Action Research Group) (1998) *They Call me Member Saab: Women in Haryana Panchayati Raj*. New Delhi.
- Matthew, George and Ramesh C. Nayak (1996) "Panchayats at Work: What is Means for the Oppressed" in *Economic and Political Weekly*. Volume XXXI, No. 27, July 6.
- Mishra, Preeti (1999) *A Documentation of SEWA's Water Campaign in Gujarat*. SEWA, Ahmedabad.
- Moser, Caroline O. N. (1993) "Practical and strategic gender needs and the role of the State" in Moser, ed. *Gender, Planning and Development: Theory, Practice and Training*. Routledge, London.
- Mukhopadhyay, Ashim (1995) "Kultikri: West Bengal's Only All-Women Gram Panchayat" in *Economic and Political Weekly*, Volume XXX, No. 22, June 3.
- Pai, Sudha (1998) "Pradhanis in New Panchayats" in *Economic and Political Weekly*, Volume XXXIII, No. 18, May 2-8.
- Panchayati Raj Update (1994-98)*, Institute of Social Sciences, New Delhi.
- Panda, Snehalata (1996) "Emerging Pattern of Leadership Among Rural Women in Orissa". *Indian Journal of Public Administration*. October-December.
- R. Prabhu & UR Rao (eds), *Village Republics: the Mind of Mahatma Gandhi*, Ahmedabad, Navjivan Press
- Sainath, P. (1998) in *The Hindu*, July 5.
- Sharma, Kumud (1998) "Transformative Politics: Dimensions of Women's Participation in Panchayati Raj". *Indian Journal of Gender Studies*, Volume 5, No. 1, January-June.
- Srinivas, Burra (1998) "Panchayat Raj, Patriarchy and Reservation for Women: Prospects and Challenges" in Sebastia L. Raj, S. J. and Edward Mathias, eds. *People's Power and Panchayati Raj*. Indian Social Institute, New Delhi.
- Verma, Babita (1998) *Participation of Women in Panchayati Raj: A Stock Taking. Uttar Pradesh: Garhwal Region*. Centre for Development Studies and Action, New Delhi.
- Vidya, K. C. (1997) *Political Empowerment of Women at the Grassroots*. Kanishka Publishers, New Delhi.