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**Exploring the Dynamics of
Democratic Decentralisation in
Rural India:
Old Issues and New Challenges**

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Decentralisation is a term that has, of late, occupied centre-stage not only in the discussion on governance and development in the developing and transitional countries but also in all policy experiments being carried out in these countries in Asia, Africa and Latin America. The USAID's Democratic Decentralisation Programming Handbook defines decentralization as 'a process of transferring power to popularly elected local governments with greater political authority, increased financial resources and or more administrative responsibilities' (USAID (2000) It may be recalled that almost in the same vein the World Bank Team suggested that decentralization is, in the final analysis, political, and it transforms the structure of governance by transferring power, resources and responsibilities to sub-national units of government

Decentralization is a generic term which covers a number of modes, such as, deconcentration, delegation, devolution, and delocalization. Long back in 1983 Rondenelli and Cheema have identified, on the basis of experience in the developing countries, four main forms of decentralization, namely deconcentration, delegation to semi-autonomous or para-statal organizations, devolution and transfer of functions from Government to NGOs (Rondinelli, D. & G. S. Cheema, 1984). Deconcentration refers to the process of administrative decentralization whereby the central government designs a structure that enables its agents to work close to the local people in field units / agencies of central government. Delegation is the transfer of responsibilities from

central government to semi-autonomous bodies that are directly accountable to the central government. And devolution is the process of transferring decision-making and implementation powers, functions, responsibilities and resources to legally constituted local governments. Another mode identified by the scholars is called delocalization which is the spatial distribution of central government socio-economic development facilities and activities such as schools, hospitals, etc in peripheral regions.

A close study of the literature on decentralization indicates that effective decentralization calls for creating a realm of local autonomy defined by inclusive local processes and local authorities empowered with decisions and resources that are meaningful to local people. Political decentralization concerns the domain of rights that local government can exercise on behalf of its constituents. It is rooted in the ideas of enfranchisement and democratization.

Decentralisation is today supported by a diverse array of social thinkers, namely, post-modernists, multicultural advocates, grassroots environmental activists, supporters of rights of indigenous peoples and technologies and the like. It may be recalled that in the 1980s decentralization came to the forefront of the development agenda alongside the renewed global emphasis on governance and human-centric approaches to development. Interestingly, the practice of decentralization is no longer confined to the developing countries. At present both developed and developing countries are pursuing decentralisation policies. The Western world sees decentralisation as an alternative to providing public services in a more cost-effective way. The developing countries are pursuing decentralisation reforms to counter economic inefficiencies, macroeconomic instability, and ineffective governance (Bhattacharya, 2004),

Reviewing decentralization practices on a global scale the World Bank's Rethinking Decentralisation document has argued that it is not true to say that the large sized countries are going for it. Many small countries are adopting decentralization as their developmental policy. The Bank's paper contends that

decentralization is particularly widespread in the developing countries for a number of reasons, namely, deepening of decentralization in Latin America, the need to improve delivery of local services for large population in the centralized countries of East Asia, the challenge of ethnic and geographic diversity in South Asia. Decentralisation has gained ground in these countries because the central governments have failed to provide effective public services. The World Bank concludes that some sort of political pressures probably drives most decentralizing countries(Livac,1998).

Pranab Bardhan is of the opinion that the important reasons for the wide spread of decentralisation include loss of legitimacy of the central state and a corresponding belief that decentralisation can bring a range of benefits directly to the local people. It is good to have more intergovernmental competition and attendant checks and balances for increasing efficiency and curbing authoritarian tendencies. Bardhan further argues that technological changes have made it easier to arrange supply of services in smaller market areas and transaction costs are less in decentralized operations. (Bardhan, 2002)

The advocates of decentralization argue that is a pre-requisite for good governance as it creates conditions for participation and paves road for transparency. Broadly speaking, from the functional point of view there are three perspectives on decentralization, namely, developmentalist, democratizing and centralist. 'The developmentalists, including the mainstream development donors, support the implementation of decentralisation because it will: bring government closer to the people; improve service delivery; educate people to become full citizens; facilitate local participation especially of the poor and thus allow government to better understand the people's needs; improve public policy design; reduce conflict by helping people to accept government decisions; socially integrate the community; and make local economies more prosperous and more equitable'. (Olum, 2014).

The democratizers argue that 'decentralisation: enhances

greater citizen input in governance by strengthening both local elites and the central state; opens the way for popular participation in making decisions about policy design and implementation; and yields higher levels of government responsiveness, honesty, legitimacy, and tolerance among citizens because local officials have better knowledge of local conditions than central government officials, and are thus better positioned to respond to local tastes and preferences' (Burki et. al. 1999: 22).

The centralists have tried to identify the lacunae of decentralization. For them, decentralisation transfers social conflicts, resources, and responsibilities to the local level where there is greater political inequality. However, they note that 'decentralisation reinforces relationships of subordination and pulverisation of the relative strength of subaltern actors. In addition, they argue that corruption and clientelism are more prevalent at the local level, making participation unattractive to many citizens as well as making participation itself undemocratic. Finally, they note that decentralisation impairs development because local governments are less technically capable than central government and because the state loses regulatory capacity and fiscal control'(Olum 2014).

Several case studies corroborate above findings. Crook and Manor (1994), Meenakshisundaram (1996) based upon a review of experience of the Indian state of Karnataka, and Blair (1996) based upon Philippines' more recent experience with decentralization, conclude that decentralized democratic governance had a positive impact on the quality of governance especially in re-orienting government from a command and control to a service provider role (see also Blair and Hansen, 1994).

'The difficulty of finding strong and consistent evidence of direct causal linkages between decentralisation and many of the acclaimed benefits suggests that decentralisation can be instrumental in promoting development and good governance but it is not a *panacea* or an end in itself. In short, decentralisation has its own political dynamics and is by no means, a universal

'good' (Barkan and Chege, 1989). Thus, if the acclaimed benefits of decentralization, as Olum reminds us, are to be achieved, developing countries should take into account a number of pre-conditions before implementing it.

The idea of decentralisation is, in a way, embedded in the democratic ideal in its application to political organisation. (Datta, (2013) and Datta (2018) Democracy as a form of political organisation may be viewed as an attempt at right ordering of people's partnership not merely in the sovereign power of the state but also in the day-to-day conduct of government. This brings into focus the local government in the scheme of decentralization.. Conceptually, while local government can be regarded as the offspring of administrative decentralization, local self government is the manifestation of political decentralization the significance of which received a lot of attention in the nineteenth century. The liberal school of thought felt that the institutions of local government need to be developed primarily for effecting improvement in administration, ensuring participation of the citizens in the processes of government, protecting individual liberty and training the citizens in the art of the democratic government. For example, example, Tocqueville, town meetings are to liberty what primary schools are to science; they bring it within the people's reach, they teach how to use and how to enjoy. John Stuart Mill stressed the educative function of the local government for securing two benefits to the nation: provision of a democratic training ground for the 19th century town and country gentlemen in the local bodies some of whom might eventually be called upon to perform duties of national importance in Parliament and education for the broader electorate in the complicated task of exercising choices in matters of elections of representatives and allocation of resources Bryce concurred with Mill in the virtues of local government institutions resulting from division of labour, political education and community of interests. Local institutions, he felt train men not only to work for others but also to work effectively with others. Bentham's vision of sub-legislative constituting a nursery for the

supreme legislative body , a school of appropriate attitude , in all its branches for the business of legislature, may be referred to in this connection..

Incidentally, Lenin had also stressed the need on participation of all the people in the processes of governance in the socialist state. He argued that socialist state creates the conditions of participation by all, first, by establishing socialist ownership over the means of production and second, by simplifying the functions of the state). According to his thinking it is only in the socialist state that all can get the opportunity of participation. In the capitalist state, only one class, the ruling class, participates in the processes of governance (Datta, 1989)

Rural Decentralisation in India: the Ancient Tradition

The self-governing village communities had existed in India from the earliest times as is evident from their reference to the *Rig Veda* the origin of which can be traced back to 1200 BC. The *village sabhas* (village assemblies) and *Gramins* (senior persons of the village) used to act as links between the villagers and the higher authorities. In course of time these village bodies came to be known as the *Panchayats*, which remained unchanged even during mediaeval and Mughal period despite the fact the their judicial powers were reduced

Rural Decentralization in India: the Colonial Tradition

In modern India, the first wave of decentralization touched the structures of colonial governance after the Sepoy Mutiny in 1857. Decentralisation was felt necessary to promote the interests of the colonial regime. The Sepoy Mutiny had put a serious strain on the colonial exchequer. It may be recalled that the Finance Member of the Government of India, Charles Treveleyan (1864) had focused on it and it was repeated in the Resolution of Lord Mayo in 1870 in which decentralization of powers was looked at as a tool for administrative efficiency and raising resources with a view to dealing with the antagonism and resistance against the colonial rule and meeting financial needs and obligations of the

government. Successive wars resulted in growing deficits in imperial finances only to be met out of borrowing which amounted to Rs. 98 billion pounds in 1858(Bhattacharya and Datta 1991)

The village communities under the leadership of the village local bodies played key role in organizing sanitary work. It was in the last phase of the rule of the East India Company and in the period immediately following the establishment of the direct rule of the Crown that consideration was paid, though in a small scale, to the supply of the basic services like health, sanitation, education, roads and the like. This need was highlighted by the Report of the Royal Army Sanitation, 1863. The growing industrial and commercial needs of the people of India and obligations towards the people perceived in liberal terms worsened the situation as it put pressure on the budgetary resources.

Again, it was the time when the business of governance passed almost entirely to the hands of the provincial governments. The other important compulsions included fuller political and economic integration, need for building reliable information system extending right up to the villages because even after the *Sepoy* Mutiny there were sporadic peasant movements throughout the country and the need for recruiting new set of collaborators in the countryside apart from the existing *zamindars*. These collaborators represented big intermediaries, traders—cum-merchants and money lenders. They were developing political ambitions. It was around this time that Andrew Laing eulogized the spirit of local self government and India's village communities including *panchayats*. Lord Lawrence, another member of the Viceroy's Council, came out with resolutions emphasizing that Indians are capable of governing their local affairs themselves and the village communities were the most abiding of India's institutions. They suggested that local services should be financed out of local taxes. Lord Mayo's Resolution of 1874 led to the birth of local self government in the villages primarily to harness local interest, supervision and care for the management of funds devoted to education,

sanitation, medical charity and public works. Ripon's resolution of 1882 gave a comprehensive blue print of decentralization in which he conceived local government not merely as an instrument of participation of the people but also as a school of democracy (Tinker, 1968)

Ripon's proposals were given warm welcome by that stratum of society, which was active in politics, namely, S.N. Banerjea, G.K. Gokhale. But he was unsuccessful in implementing his scheme because he failed to win effective political support of the imperial government in favour of his scheme of local self government. His liberalism drawing inspiration from Hume coupled with his understanding of the need for providing outlet to the westernized middle class helped him conceptualise local government not merely as instruments of effecting improvement in administration but also as instruments of popular and political education of the masses.. A close and critical examination of his resolutions would tend to show that apart from his liberal democratic consideration he was in fact guided by the twin colonial considerations of raising resources and co-opting the westernized middle class into the framework of governance to silence their voice against the colonial rule. It was thus political consideration which was the locomotive of local governance in colonial India

Against this background came the *Montague –Chelmsford Reforms Act of Act of 1919* in terms of which local government became a transferred subject. Although it meant transfer of the local government to the hands of the Indian ministers in the provinces local government could not emerge as democratic and vibrant instruments of self -government at the village level. The concept of local government as the agent of the higher level government remained the guiding premise of local governance in colonial India as it suited colonial economic and political objectives.

Secondly, the local government institutions set up by the colonial rulers were imposed from the above and, as Bandyopadhyay and others observe, remained loosely grafted

to the indigenous rural society. They rightly observe that the old community based self-governing institutions and the newly created and superimposed bodies of local government failed to develop any creative relationship.(Bandyopadhyay, 2003)This model of local government was in tune with the three-fold interrelated colonial political objectives, namely, regime entrenchment, regime expansion and regime consolidation

The Nationalist Movement and Decentralisation Discourse

When India was fighting for freedom the leaders were enthusiastic about introduction of vibrant village self-government. Gandhi talked of *village swaraj* and pleaded for taking the villages as the starting point of India's democracy. He had initially thought of autonomous village republics, which would be federated into a national government having authority and jurisdiction delegated upwards to it from below (1959)(Datta, 2017). He spelt out the formal mechanism for this to his biographer Louis Fischer (1982) thus, "There are seven hundred thousand villages in India each of which would be organised according to the will of the citizens, all of them voting. Then there would be seven hundred thousand votes and not four hundred million votes. Each village, in other words, would have one vote. The villages would elect the district administration; the district administrations would elect the provincial administration and these in turn would elect the President who is the head of the executive. This would have been a system in which direct voting would take place only at the village level and all the higher levels would be beholden to the villages."(Fischer, 1982)

This framework was a radical departure from the colonial centralized top down model of governance which was put in place by the colonial rulers and later on, culminated in the Government of India Act of 1935.The Congress Party had participated in the elections and the governments formed under this Act and so most of its leaders were in favour of a centralised system of governance.

Rural Local Government in the Constituent Assembly Debates

The architects of the Constitution were quite hesitant to create a system of decentralized form of rural governance. It became clear when Nehru expressed his reservations to Gandhi on the question of taking village as the starting point of India's democracy. In course of his conversation with Gandhi on this issue he argued that he failed to understand why villages would be the embodiment of non-violence and simplicity. That he was keen to give more focus on individual rather than on community became evident from his speech in the Constituent Assembly while moving the Objective Resolutions for the draft Constitution. Nehru "preferred to maintain silence during this heated debate. Steeped in the history of India.....he seemed trapped between the ambiguities of western modernity and the prospects embedded in a rich civilisational heritage" (Mukherji, 2007: 32).

Ambedkar's scathing attack on the villagers 'as sinks of localism, ignorance and narrow mindedness, (Malaviya, H. D. 1956) and conspicuous silence about the place of villages in the objective resolutions and the draft constitution brought out that decentralized village government did not figure prominently in the agenda of the architects of the draft Constitution.. The debate following the remarks of Ambedkar indicated that there was a section of the members of the Constituent Assembly who were strongly committed to Gandhi's concept of village *swaraj*. But the fact remains that the consensus that emerged after prolonged deliberation on this subject was that decentralised village government was not the priority, and that was why it was given a place in Article-40 of the Constitution which was located in the unenforceable part of the Constitution known as the Directive Principles of State Policy

Rise of the First Generation Panchayati Raj

The results of the top-down community development programme initiated in 1952 were unsatisfactory in the sense that it failed to regenerate the community to take part in the process of development (Jain,1988), and this led to the formation

of the Balwantrai Mehta Study Team to suggest means of effective local self-governance in 1957 This committee categorically recommended the devolution to the three-tier panchayati raj system, and the report was accepted by the National Development Council. Thus came into being the first generation three-tiered panchayati raj system which was started with a lot of fanfare.

There is a school of thought which argues that there was political need to move out from the centralised model of governance to decentralised village governance through panchayati raj. The leaders of the Indian National Congress realized that as the freedom movement had a strong urban bias, rural people who stayed away from the mainstream, were not therefore aware about the role that the ruling party, Indian National Party played in fighting for India's freedom. But as they constitute nearly 70 per cent of India's electorate they have tremendous importance in electoral politics. They needed to be roped in through governmental outfits like panchayats for the consolidation of the political strength of the party in the villages. They would be carrying the political message of the ruling Indian National Congress although concept of party-less democracy at the village level was the declared agenda. It was not difficult to understand that party-based democracy at national and state levels and party-less democracy at the local level was contradictory and impracticable. It was evident from a number of studies that political parties were active at the time of elections although they had to carry out their political activities covertly and in a hidden manner. (Haldipur RN and Paramhansa,1970)In fact, it is not possible for the political parties to stay away from panchayat elections because they have to organize the voters politically and they have to work with them as political entities to gain electoral dividends at the assembly and parliamentary elections. (Datta,1997)

It may be mentioned here that the Asoka Mehta Committee appointed by the Janata Government in 1978 had accepted the reality and recommended for open party

participation in panchayat elections. The Committee observes “Their participation would make a clear orientation towards programmes and would facilitate healthier linkages with higher level political processes. It is also necessary to provide constructive outlet to the opposition parties, parties out of power at the state level may be able to chalk out achievements at the district level. District elections coupled with programme based contests, would offer greater scope to weaker sections for availing of the opportunities offered by the political system. It is also expected that these bodies would become training grounds for the junior political leaders to prepare themselves for taking greater responsibilities in future” (Datta,1992)

The Marxist scholars have argued that the concept of party-less democracy at the panchayat level is an attempt to disarm the poor in their fight against vested interests and landed gentry (Datta,1997) and it makes it difficult for the PRIs to work as instruments of social change in the countryside because social change calls for transformation in the land relations through effective land reforms. And again, given the strength of the landed gentry in rural India land reforms in the sense of restructuring land relations cannot be implemented without ‘politicising’ the large mass of rural population as was done in West Bengal during the regime of the Left Front which was succeeded in implementing land reforms programme successfully, Thus the concept of party-less democracy at the panchayat level, according to them , was a well -conceived political attempt to ensure the continuation of the rule of the landed gentry and the vested interest in the villages. Interestingly, the concept of electoral consensus without the participation of political parties in open elections has been found to be consensus of caste or class as hinted at in the Santhanam Committee Report. (See, Datta , 2006)

However, the first generation panchayat system failed to work for long. It had passed through a phase of ups and downs. The Asoka Mehta identified post 1959 panchayat experience into the following three phases: (i) phase of ascendancy (1959-64) (ii) phase of stagnation (1965-69) (iii) phase of decline (1969-

77) The factors, such as, a) absence of political will, b) reluctant bureaucracy, c) lack of involvement in planning, d) ambiguity with respect to the role and status of panchayats, and e) the domination of rural elite on panchayats were considered responsible for undermining PRIs. The three-tiered institutional structures created had faced challenges from within as it helped develop new centres of power. There were internal contradictions as well because the attempt was made to involve people without replacing the strong colonial bureaucratic structures by the democratic structures. The first generation *panchayat raj* system collapsed in all states except Maharashtra and Gujarat soon after Nehru's death in 1964 (Datta, 1994).

The Emergence of the Second Generation Panchayats

But the Indian state continued to express concern about the institutions of panchayati raj as was evident through the constitution of the GVK Rao (1985) and L.M. Singvi Committee (1986). The first committee was concerned about developing *panchayats* as instruments of planning and rural development while the second one focused on participatory democracy for which they recommended the creation of the *gram sabha* as a deliberative body of decentralized democracy and urged on the constitutionalisation of *panchayats*.

The most significant development in the career of rural local self-government in post-colonial India took place in 1992 when the constitutional amendments were made to empower local government in both rural and urban areas. These two amendments (73rd and 74th amendments) constitutionalised local governance and sought to ensure democratization of the governing processes by making it mandatory to hold elections to local bodies at regular intervals under the aegis of a constitutional body called the State Election Commission. Added to it was the mandate for creating direct democratic institutions in the form of *gram sabhas* in the countryside for institutionalization of participation of the villagers. They clarified the status of these bodies by defining them as institutions of self

-government and instruments of planning for economic development and social justice. The Seventy Third amendment gave directions to the state legislatures, though not mandatory, to devolve powers and responsibilities to them in order to enable them to function as institutions of self- government for which the Eleventh Schedule was inserted to the Act This amendment paves road for more effective inclusive governance by providing for reservations of seats for women and the marginalized sections of the Indian society known as the Scheduled Castes and Tribes. Care was also taken to strengthen the financial base of the local bodies through the setting of Finance Commission at the state level.(Datta,2009)

Gobinda Rao has drawn our attention to five important issues for understanding the legal framework for the decentralisation process in the country. 'First, the Constitution assigns through Article-243(G and W) decentralization including funding entirely to the discretion of State governments. It does not clearly assign the functions or sources of finance, but leaves it entirely to the discretion of the States. While this may be to evolve the system of decentralisation appropriate to a State considering the strength of its history, economy and capacity, it also hinders the process.' Second, the standard or model of decentralization is left to the states. Third, there are no easy mechanisms to ensure compliance of even the prescribed provisions of the Constitution by the States.'

The Anatomy of the New Crop of Local Government

The 73rd Amendment was definitely a paradigmatic shift in the life of the rural local self- governance in India as it attempted to bring about a fundamental change in the governing process of rural India though the installation of the democratic institutions as supplement to the bureaucratic institutions at the district level and below. But a close and critical look at the processes out of which the idea emerged and the experiences of working of these bodies after the Constitution was amended, would tend to show that the old colonial and pre-constitution amendment

tradition of developing rural local bodies as an efficient delivery system in the countryside remains unabated.(Datta, 2003)

It cannot be denied that it has rich political dividends. Added to it were the political exigencies rooted in the political turmoil in the different parts of the country in 1970s and 1980s and considerations of power politics and compulsions of liberalization. The 1970s and 80s were marked by series of political upheavals based essentially on ethnic, religious and ethnic considerations. These movements had in fact posed a serious challenge to the legitimacy of the state. Mention may also be made of the militant agitations in the North- East India and in Punjab and separate state movements in many parts of the country and state autonomy movements led by the opposition ruled parties. It became evident that that the state governments were not capable of responding to these challenges effectively. Presumably, it was realized by the ruling parties that highly centralized state system was ill-suited to address the situation and thus the focus was shifted to the decentralized institutionalized arrangements.

All these remind us of the colonial days when the colonial rulers had to accept decentralization under compulsion. Second, the power politics of the ruling Congress Party had also necessitated it because the party was out of power in many major states. The opposition ruled states came under one umbrella to demand more powers for the states. Caught in the vortex of crisis the Indian ruling classes might have thought of empowering *panchayats* as an effective measure of passing the buck on the constituent states and marginalizing them at the same time by creating a direct linkage with the *panchayati raj* institutions through a constitutional amendment. Third, the fundamental shift in the policy by accepting liberalization has also necessitated the process of empowerment of local democratic institutions to enable them act as the messengers of the ruling party or coalition of parties in the villages and to help them absorb the shocks of the policy shift. More resource mobilization for meeting some of the increasing local needs was also on the agenda. One is again

reminded of the compulsions and considerations that dominated the colonial phase of strengthening local government after 1887.

Holding elections at regular intervals

One of the primary objectives of the amendment is to democratize rural governance by making provision for holding of elections at regular intervals as it was found that state governments refused to hold elections when the ruling party or coalition of parties found that political wind was not blowing in their favour. The amendment failed to bring about fundamental change in this regard. As in the past some of the states have taken years to hold elections. Significantly, elections to *panchayats* have been completed in many of the states after a series of legal battles and interventions by the civil society organizations. For example, in Bihar a series of legal battles led to the delay in the holding of elections. The matter was resolved finally when the Supreme Court intervened to compel the state government to hold elections pending the decision on legal issues before the court. The case of Orissa is more interesting. The elections to *panchayat* bodies were due to be held before February 2002. The SEC had promptly intimated the state government its preparedness to conduct elections on time, and suggested delimitation of wards and reservation of seats beforehand, if required. The state government had ordered limited delimitation of seats in consonance with the Orissa Gram *Panchyat* Act, 1964. To cause further delay in this regard the state government brought a bill in the monsoon session for the reservation of seats in favour of the Other Backward Castes. The SEC chose to file a case in the High Court. At this stage the state government decided to hold elections (Panchayat Update, 2003). In the panchayat elections in West Bengal in 2011 the SEC had to move the Supreme Court to seek Central Reserve Police Force to conduct elections. There was a long battle between the state government and the State Election Commission to ensure free and fair and timely poll Gujarat has set a unique example. The State Government has announced incentives to the extent of Rs. 1 lakh to those *panchayats*, which would be able to hold elections

on the basis of consensus. The scheme called *samras gram* (harmonious village) is out and out anti-democratic. It is veiled attempt to promote guided democracy which is antithetical to the very spirit of grassroots democracy. The silver lining is that the people of Gujarat seemed to have rejected the idea as was evident from the contests that characterised the elections in more than 90 per cent of the GPs During the *panchayat* elections in Karnataka and Andhra Pradesh in 2000 and 2001 respectively some of the seats were auctioned. The Election Commission could not interfere on the ground that if the voters made an arrangement among themselves to ensure unanimous election. The same had happened in Madhya Pradesh too.

Election by consensus has turned out to be an emerging feature in the form of uncontested seats in many states. Mention may be made of West Bengal panchayat elections in 2017 and Tripura in 2018. In West Bengal it was more than 36 per cent seats bagged by the ruling party, Trinamool Congress and in Tripura, it was as high as 96 per cent captured by the ruling coalition led by the BJP. According to press reports in both the states the intending candidates and the political parties nominating them were not allowed to submit nomination forms following intimidation, threat and violence on the days of nomination. In a divided society like ours, spontaneous consensus in the interest of a large section of people is a myth. If there is at all any consensus, it is that of caste, religion etc. and or class or by intimidation. The Santhanam Committee (1963) examined the scope of unanimity in *panchayat* elections. The Committee came across villages where the anxiety for unanimity and consensus meant the continuation of the traditional authorities and suppression of the new spirit of the youth.

Apart from violence which mars panchayat elections in some states (Panchayat Update 2005) many contesting candidates have been reported to have criminal records. This is unavoidable in a country like India where nearly 50 per cent MPS have criminal records. There was large scale distribution of gifts and allurements offered by the candidates in UP elections held in 2005. There was

a free flow of money and liquor in many villages. Hand pumps were installed outside each house in one of the villages and voters in one of the villages received silver rings and glasses. A candidate in one village called Pratapgarh promised gold rings to each woman in the GP if he won. In several constituencies whisky bottles were distributed liberally. There was hardly any serious candidate who did not exceed the expenditure ceiling fixed by the SEC. The local newspapers were splashed with advertisements by the well-to-do candidates. (Panchayat Update 2005)

Devolution in the Conformity Legislations

The Eleventh Schedule does not 'list subjects or functions but only matters', as T.N. Srivastava (2002) points out. There is no constitutional mandate that rural local bodies would perform these functions or these would be transferred to rural local bodies or the schemes related to them will be entrusted to them for implementation. The legislature of a state is required to endow these bodies with such functions as may be necessary to enable them to function as institutions of self government. Such law may contain provisions for devolution of powers and responsibilities subject to such conditions as may be specified therein and for the implementation of schemes for economic development and social justice as may be entrusted to them including those mentioned in the Eleventh Schedule. The state legislature is thus sole determinant of self-government. The repeated usage of the word 'may' in the Article fails to make it mandatory on the part of the state government to implement these provisions, thus leaving power-sharing with the state government solely at the disposal of the political leadership at the state level (Datta, 2011). Presumably, Parliament was compelled to use the word 'may' because some of the items come under the purview of the state list. Thus *panchayats* cannot enjoy full autonomy as they are set within the constitutional jurisdiction of the states and form part of the state list. Nor can the states for that matter, as they are placed within the Indian union. Broadly speaking, what the Seventy Third Amendment has done, as Mukerjee¹³ tells us, is 'to

constitutionalise three strata of government'. (Mukarjee, 1994)

It is found that the most of the states are not serious about carving out a clear path of devolution to PRIs. The Parliamentary Committee in its 37th report submitted in 2003 expressed concern at the pace at which the states are working in this direction. The Report of the Task Force on the Devolution of Powers and Functions to the PRIs brought out by the Ministry of Rural Development has admitted that the mandatory provisions of the 73rd Amendment Act are yet to be implemented in letter and spirit by most of the states / UTs even eight years after the said Act brought into force in April, 1993". The conformity legislations of most of the States have not significantly altered the functional domain of *gram panchayats*. A close scrutiny of the Acts in different states tends to indicate that except in a few states clear functional mapping for the different tiers does not exist. There are states like UP where departmental heads at the district level could function independently of the PRIs.

The lack of clarity in functional allocation and absence of desegregation into detailed activities as *Panchayati Raj* Development Report 1995 mentions, has led to considerable overlapping and duality of control in most cases. It has been argued in the report that the functional autonomy is rendered difficult because in almost all the states, the state governments retain the power to assign, amend or withhold functions which, as per the 73rd Amendment of the Constitution, is a job only the state governments are authorized to do.

Transfer of Funds

The transfer of functions without corresponding transfer of funds does not make sense. But this has happened. Mahi Pal rightly says that before listing the functions to be performed by the *panchayats*, the states have introduced certain qualifying clauses (Pal, 2004). In Andhra Pradesh, Haryana and Tamil Nadu it is "within the limits of its funds". In Punjab "it is to the extent its funds allow to perform". In Madhya Pradesh and Himachal Pradesh, it is "as far as the gram panchayat funds at its disposal".A

critical review of the provisions in the Acts of the different states regarding tax assignments, tax sharing, non- tax revenues makes it very clear that the PRIs at the level of the *samiti* and *parishad* do not have independent taxing powers. Most of the taxes are assigned at the GP levels.

Provisions for independent budgeting by the three tiers are another prime requisite to ensure autonomy. In some states like Andhra Pradesh and Odissa for PS, Punjab for ZP, Rajasthan for PS and ZP, Tamil Nadu for all tiers, the preparation and presentation of budgets is left to the executive authority rather than to elected representatives.

The States are required to appoint a Finance Commissions every five years and their reports are required to be placed in the legislatures with the action taken reports. Unfortunately, the States' record in this regard has been pathetic. Their record of appointing the State Finance Commissions and actions on their reports shows complete violations of Article-243 I and Y. The State legislatures are required to make laws to ensure maintenance of accounts and auditing of such accounts by panchayats and municipalities. The record of experience is that these provisions have been observed in their violation rather than compliance in most of the States. In very recent book Reddys lament the lack of funding for panchayats and municipalities and hold the states responsible for not taking panchayat institutions seriously and for not periodically setting up State Finance Commissions to allocate funds between the state and its local bodies (Reddy& Reddy, 2019) . But the centre's role is not beyond criticism. (Rajan, 2019) Rajan rightly argues 'fiscal federalism implies a partnership, a willingness for the more powerful to let go of some their powers'. (Rajan, 2019)

By mid –1990s the first SFCs had submitted their reports. Referring to the role of the SFCs the mid-term appraisal of the Ninth Plan pointed out, "more buoyant taxes like sales tax and excise are kept out of the purview of the PRIs. All SFCs have put great emphasis on internal revenue mobilisation but none has suggested any effective mechanism for PRIs to generate their

revenue. Only two states – Karnataka and Sikkim – have devolved funds to the *panchayats* for 29 subjects.

There is no separate list of tax bases assigned to them in the Constitution and they have to depend on the State governments to levy the taxes that the States choose to devolve. There is also the problem of administrative capacity and interest groups resisting payment of taxes and user charges. Unlike in theory which states that the Wicksellian link is stronger at the local level as the people can relate the tax payments to services rendered, in actual practice, free-rider behaviour permeates and influential groups would somehow like to pass the burden of financing services to the non-residents (Rao, 2015).

Does the framework allow the Union Finance Commission to act as a champion of decentralisation? Rao has answered the question thus. While one would like to think that an organic link is provided to it by seeding an additional term of reference in Article-280, a careful reading of the Article shows that the role is confined to “...recommend *measures* to augment the Consolidated funds of the states to *supplement* the finances...” of local bodies on the basis of the recommendations of the State Finance Commissions”. When the Constitution itself does not prescribe any particular type or standard of decentralisation and when the language of the additional Term of reference clearly shows that the Commission is only required to recommend measures to augment the Consolidated Funds of the States to supplement the resources of local bodies, how can the Commission arrogate itself into undertaking a larger mission of championing decentralisation? This basic question raised by Rao still remains unanswered.

That of course, begs the question as to who will champion decentralisation.’ First, it is important to have clarity in the assignment of functions and the local governments should have clear and independent sources of finance. Second, there should be clear mechanisms to ensure that States comply with the constitutional provisions, particularly in the appointment and implementation of the recommendations of the SFCs. Third, sustainable decentralisation comes from the demands of the

people and advocacy should focus on a decentralisation agenda. Indeed, the framework needs to be evolved to accommodate the demand for decentralisation. Even within the existing framework, it is important for intellectuals and the press to pressurise the States to comply with the Constitutional provisions like creation of planning authorities and appointment SFCs, if necessary through public interest litigations. The SFCs have an important role to play which can be fulfilled only when State governments take them seriously'.(Rao, 2015)

Transfer of Functionaries

To function effectively as institutions of self government the PRIs need to have the power to recruit and control staff required for managing its functions. Staff is a resource that an organization must possess to perform its activities. Strangely, Part IX and IXA of the Indian constitution remain silent on this vital aspect of institutional autonomy. Viewed from this perspective the state panchayat legislations too present an indeed gloomy picture. The state governments still have retained for themselves the power for inspection, inquiring into the affairs of the panchayats, suspension of panchayat resolutions and issuing directions. Besides in most states the key functionaries, namely, the secretaries and executive officers at all the three levels of panchayats are state government employees who are appointed, transferred and controlled by the state government. Being under the direct control of the state administrative hierarchy they are often reluctant to work under the administrative control of the elected panchayats. Moreover, provisions for the deputation of officials from the state government to the panchayats have been made in the state panchayat Acts without consultation with the panchayats. The tenure, transfer and the promotion of deputationists are also decided by the state government without consulting the panchayats.

It may be mentioned here that the Ministry of Panchayati Raj of Government of India has been conducting annual study on The Panchayat Devolution Index (PDI) since 2006. The study is undertaken to assess where each State stands in the matter of

devolution of powers to the Panchayati Raj Institution (PRIs) or the rural local bodies. In this study focus is given on three aspects as follows:

- **Functions** – Effective transfer of functions as envisioned in the 73rd amendment
- **Functionaries** – Adequate number of functionaries to discharge the functions under the control of elected leadership
- **Funds** – Commensurate funds to discharge their functional responsibilities

The latest study done in 2014-15 by Tata Institute of Social Sciences (TISS) in 25 different states took into account two indices for all the levels. They are known as

- Index of Devolution in Policy (DPo)
- Index of Devolution in Practice (DPr)

The first index considered the following items

- Percentage of detailed functions transferred to PRIs
- Number of functionaries per 1000 population
- Per capita fund available
- Infrastructure of Panchayats
- Transparency in Panchayats like publishing accounts, budget documents etc

The second index has empirical base as it is at actual practice.

Kerala topped the overall Devolution in Policy (DPo) rankings. Kerala was found as the front runner in all the parameters except funds. Karnataka was the best in transferring adequate funds to the PRIs. Karnataka came second and Maharashtra came third. While Sikkim was found doing well in transferring functions, it ranked low on other parameters.

The study also revealed an interesting facet with respect to the devolution process. There were stark differences in devolution between various tiers of PRIs. In 10 states, the District Panchayats were ranked better than the Gram Panchayats, while in 11 other states, this was the exact opposite. Only in Kerala, Odisha & Arunachal Pradesh, there was no difference in the ranking of DPs & GPs. The difference was stark in Punjab, Bihar,

Tamil Nadu and Chhattisgarh. Clearly the devolution has not been done in keeping with expectations of the Act. It indicates that the policy makers at the state levels do not seriously want to share power with grassroots democratic institutions. This problem is as old as the panchayati raj institutions in India. What is matter of greater concern is that the constitutional amendment which was expected to set it right, had also failed. In fact, it is essentially a political question and cannot be resolved through constitutional amendment which could not go whole hog because of inherent limitation ingrained in the centre-state relationship.

Centrally Sponsored Schemes

The creation of a large number of programmes sponsored by the Union Ministries has posed a serious challenge to constitutionally mandated democratic decentralization process institutionalised through three-tiered panchayats and municipalities by distorting the multilevel planning process and inter governmental transfer arrangements within the federal set up. This is mainly because many of the subjects they deal with, are either included in the State list or the 'local list' mentioned in the 11 and 12th schedules. The schemes are drawn up at the centre and implemented at the local level. The association of local bodies with the implementation processes does not really serve the purpose because the implementing bodies only implement according to the rules laid down elsewhere. The local government has to accept them because the centre has financial clout. Thus the autonomy which is a hall mark of effective decentralised governance becomes formal, rather than real.

Rise of Parallel Bodies and their Differential Impact

The emergence of a series of parallel bodies in different states is detrimental as they infringe on the jurisdiction of the *panchayats* delimited by the Constitutional amendment.. Broadly speaking, the functions performed by the parallel bodies can be classified as ensuring user\beneficiary participation, convergence of programmes and promoting\ensuring efficiency. While these

are the basic functions of the *PRIs*, the matters like irrigation, watershed management and development and minor forest produce come under the purview of the Eleventh Schedule which lays down the functions of the *PRIs*. The *Gram Vikas Samity* in Haryana and the Vigilance Committee in Himachal Pradesh, for example, encroach upon the statutory functions of the *panchayat* bodies as spelt out in the *Panchayat* Acts of the respective states revised or freshly enacted in conformity with directions of the Constitutional amendment. The Task Force on *PRIs* has argued that the Village Development Committee set up by the Government of Haryana negates the provisions of the 73rd Amendment Act regarding reservation of SC, woman and seems to replace the elected *gram panchayat* by a parallel body set up by the administrative orders of the government. The *Janmabhoomi* (*JB*) programme in the erstwhile Andhra Pradesh tended to mobilize local people, the entire state administrative machinery and draws upon all the existing central and state government schemes as resource for development work, and thus substituted the functions of the Gram Panchayat. Although the *Sarpanch* was to preside over the *JB Gram Sabha*, the real player was the officer. Apart from bureaucratizing the participatory development process it created another problem. The Gram Sabha meetings convened by the Gram Panchayat became less important because of the realization on the part of the people that fewer benefits were available through panchayats. The Task Force on *PRIs* observes that it has a content of people's participation and social mobilisation, but it bypasses *PRIs*. (Task Force on *PRIs*, 2001)

It is a veiled attempt to bureaucratise rural development and governance. Bureaucrats in local governments, especially *gram panchayat* secretaries, continue to exercise considerable influence over elected representatives as they are the repository of information contained in the government orders that may not be readily accessible to the elected representatives who lack an understanding of the official procedures or basic literacy skills. In Assam, for example, the co-ordination committee of the *PRIs*

in Tinsukia district complained against the Block Development Officers who were keeping the cheque books, ledgers and other important files with themselves. In a couple of states like Haryana, the Act had given the Chief Executive Officer of the *Zilla Parishad* the authority to refuse to implement any of its resolutions, if considered by him not to be in the public interest.

There have been cases when the senior officials were found trying to thwart the role of the PRIs and curtail the power of the elected *panchayats*. In Madhya Pradesh, for example, it was reported in the newspaper that there were at least half a dozen cases of district level government officials being involved in brawls with the *panchayat* leaders. As a result of this rift the functioning of *panchayats* in at least 12 villages came to a halt. (The Telegraph, 1996)

The general reaction against the parallel bodies is that they represent processes external to the constitutionally mandated role of *panchayats* and enable bureaucracies to override democratic bodies. Thus they pose serious threats to the effective functioning of local self-governing institutions as institutions of self-government, as defined by the Constitution.

The MP Local Area Development (MPLAD) Scheme

The actions taken by the Indian State after the amendment of the Constitution did not prove that there was strong political support for strengthening decentralised and participatory local governance in rural India. Mention may be made of the decision of the Indian State to introduce Members of Parliament Local Area Development (MPLAD) Scheme. Under this scheme a large sum of money per year is placed at the disposal of the MPs. The MPs are allowed to spend the money to undertake local area development schemes outside the purview of *panchayats* and municipalities. Incidentally, the State Governments are also not lagging behind in undermining the authority of the decentralized constitutional bodies. Some of the State Governments have also introduced similar programme for the MLAs. In this way, the constitutionally mandated local government institutions are

bypassed. Under the scheme each MP can suggest to the District Collector works worth up to Rs. 2 crores (now increased to 4 crores) in a year. The Ministry releases the funds directly to the Collectors who get the works done on the advice of the concerned MP. The funds should be used for creation of durable assets to be vested in government. The central Government has given an illustrative list of 28 items. There is also a list of works not permissible such as raising of memorials, building of places of worship and the like. However, the Report of the Comptroller and Auditor General (2001) showed that the MPLAD was plagued not only by the inadequacy of funds but also by the increasing underutilization, misuse and diversion of money earmarked for the project. Most of the plans undertaken form part of the 11th and 12th Schedules incorporated in the 73rd and 74th Amendments of the Constitution which clearly refer to the functions that are to be transferred to the local bodies. The Report noted that out of Rs. 5018 crores only Rs. 3221 i.e. 64 per cent of the released amount could be spent. Also, the release of funds was not linked up to their end- use, with utilization certificates being received for only 29.78% of the projects taken up and completed by the implementing agency. While during 1993- 97, 89% of the work sanctioned by the collector was taken up, only 56.13% of it could actually be completed. The corresponding percentages further declined to 86.41% and 39.42% respectively, during 1997- 2000. This was due to the fact that the Ministry often released funds without any co-relation with the end use and it did not insist on the utilization certificates from the implementing agencies. MPs of 16th Lok Sabha did not spend their MPLAD funds as effectively as MP elected to the 14th and 15th Lok Sabha..Unspent MPLAD fund in the case of the 16th Lok Sabha was Rs 1,734.42 crore, which is 885 per cent more than the unspent amount of 14th Lok Sabha (Rs 176 crore)..Only four of the 37 states and Union territories were able to achieve utilisation percentage of more than 100 per cent.

Similar has been the findings of the sample study of audit in 106 constituencies where it was found that out of total

expenditure of Rs.265 crores reported by the Collectors, a sum of Rs. 82 crores, that is, 31 per cent of the total money was, in fact, not spent at all. The guidelines seem to have been observed more in their breach. In Nagaland, for example, the money was spent for building roads connecting the Church, in Orissa temples were built, in Madhya Pradesh money was spent for building housing complex for the police officials. (Sezhian, 2002)

The Centre for Budget and Governance (CBGA) in its report, *The Rhetoric and Reality of MPLADS* (2004) reviews the working of the said scheme in seven constituencies spread across six Indian states- Rajasthan, Madhya Pradesh, Gujarat, Uttar Pradesh, Jharkhand and Orissa. The report holds the legislators of both the houses responsible for the underutilization of funds. While the Lok Sabha members (till 2003) used only 77% of their total entitlement, the amount used by the Rajya Sabha members did not exceed 50%. In sharp contrast to the MPLAD guidelines, the responses of the MPs to the CBGA questionnaire reveals a significant bias towards the construction of conspicuous infrastructural works, especially roads and bridges which leave room for rampant misuse of development funds along with greater involvement of private contractors in the process of implementation. With water supply, education, health, sanitation and electrification continuing to remain the chief concerns of the masses, these areas are found to attract a negligible investment. The report also studied the scheme's beneficiaries across six states. The overall picture that emerges is that a lion's share of the MPLAD funds is spent in a top- down manner without taking into consideration people's actual needs. Beneficiaries also alleged that they were paid much less than the specified minimum wages in employment works under the scheme and an overwhelming number (62%) agreed that the quality of assets created was either bad or very bad. (Tripathy, 2004)

Some critics feel that most of the schemes being funded and executed form part of the 11th and 12th schedules to the Constitution which define the functional domain of the panchayats and municipalities. The guidelines authorizing the

MPs to exercise their personal choice and decision in funding and executing the scheme lead to usurpation of the power and responsibilities of the local bodies. It has been argued that in many instances the choice of schemes and amounts expected can significantly alter or distort local priorities, as may be decided or desired by the local bodies.

Even in the face of widespread public criticism of the administrative and financial mismanagement of funds under MPLADS, continued recommendations for the abolition of MPLADS by the Administrative Reforms Committee (ARC) in its successive reports have failed to create any positive impact. As most of the MPs openly expressed their unwillingness on the floor of the Parliament to give up the scheme, it was finally decided to continue the scheme but with new and stringent safeguards. As a result a set of new guidelines were framed in the middle of November, 2005 to be considered in the subsequent meetings.

The National Commission to Review the Working of the Constitution headed by former Chief Justice M. N. Venkatachaliah recommended - "The MPLAD Scheme is inconsistent with the spirit of federalism and distribution of powers between the Union and States. It also treads into the areas of local government institutions. The Commission recommends immediate discontinuance of the MPLAD Scheme as being inconsistent with the spirit of the Constitution in many ways." More interestingly, leaders of political parties including Manomohan Singh and L. K. Advani have time and again, called for the withdrawal of the scheme to avoid blanket charges of misappropriation of funds against all MPs. In a Short Duration Discussion in the Rajya Sabha on December 10, 2003, on charges of diversion of the MPLADS funds, Leader of the Opposition Manmohan Singh said: "If you allow things to go this way, people will lose faith in politicians and the democratic system of governance. This will be a mockery of our legal system also." (The National Commission to Review Constitution, 2002)

Following a sting operation telecast by a television channel

in December 2005 showing MPs getting commissions for recommending schemes, the Speaker held meetings with the leaders of the Opposition parties. At that time, Bharatiya Janata Party leader L.K. Advani suggested the scrapping of the scheme and allotting the funds involved to the corpus for state funding of elections. D. P. Yadav, leader of the Rashtriya Janata Dal, considered the scheme unconstitutional and K. Yerran Naidu, leader of the Telugu Desam Party, said that his party was against the scheme.

In order to monitor the implementation of the National Common Minimum Programme of the United Progressive Alliance government, the government set up, in June 2004, the National Advisory Council (NAC) with Congress leader Sonia Gandhi as chairperson. The NAC recommended discontinuance of MPLADS. In its recommendation of April 2005, it said: "Ideally, local area development needs should be determined and interventions made by the elected local governments. Therefore, MPLADS should be dispensed with, and these funds should directly go to panchayats and municipalities for the same purposes... . Several new schemes, missions, and projects have been launched by the Union government in pursuance of the National Common Minimum Programme. Most of these programmes, and most components of these programmes, cover the subjects in XI and XII Schedules. All these programmes should be implemented by local governments, and all the funds should be kept at their disposal. This will ensure a substantial devolution to local governments. The local governments should own, manage, monitor and control all these new programmes and missions." (Frontline, 2007) Despite all these criticisms and recommendations the scheme continue to exist because the MPs themselves have failed to achieve consensus on this matter.

Some Controversial Pieces of Legislations

A few states have enacted some legislations, which go against the very purpose for which the Constitution was amended to strengthen panchayats and governance more inclusive.

Mention may be made of the legislation on two child norm and educational criteria. The two child norm has been introduced in as many as nine states, the objective being to control the size of the family and it is premised on the belief that that the politicians would be setting example. . It is modelled on the one child policy of China (1979) in terms of which couples were forbidden to have more than two children.

The critics argue that it is not only coercive impinging on the fundamental principle of human rights. It is also discriminatory because it seeks to penalise only elected representatives of panchayats ignoring the elected representatives in Parliament and State Assemblies. There is a school of thought which argues that it goes against the rights of the Indian citizens guaranteed under Article-14.

Used more as a powerful tool to settle personal and political scores, instances recur in every panchayat term of blackmail and threats to unseat women and men representatives from vulnerable sections if they do not follow dictates of vested interests. More powerful classes and castes have been better able to circumvent the provisions of this norm; women too have become its unintentional victims. The introduction of this norm should have proceeded in tandem with other much needed measures of upliftment in backward areas, such as education, health care and the provision of counselling facilities. (Buch, 2005)

The following is in response to a recent judgement of the Supreme Court on October 25, 2018, which upheld the dismissal of a former sarpanch from his post for having three children. Minasingh Majhi of Nuapada, Odisha, had got elected in February 2002 and was disqualified from his post by the Orissa High Court after the birth of his third child in incumbency in August 2002.

It is necessary to remove the two-child norm from the Orissa Gram Panchayat Act as it does not serve the purpose that it originally was intended for. In the run-up to the 2017 panchayat elections in Odisha, the Government repealed a clause that had similarly restricted people who were speech and hearing-impaired and those cured of leprosy and tuberculosis from

contesting the elections. So, why not remove the two-child norm also? Is it such a dreadful disease to have more than two children? Or is it more worthwhile to plug the systemic lacunae reinforcing the rural poor's anxieties and helplessness in maintaining a small family?

According to the Odisha Panchayat Act as amended in 2014 one who does not have written and oral knowledge in Oriya cannot contest panchayat elections. Ruben Banerjee writes, 'It was Naveen's luck that the knowledge of the local language was not mandatory for the state's highest elected position. Though unqualified to be a lowly gram panchayat member, he has had no problem in continuing as the chief minister.' (Outlook, May 2018).

In 2014 the Rajasthan government issued an ordinance amending the Rajasthan Panchayati Raj Act, 1994 to make education a pr-requisite for contesting panchayat elections. The ordinance seeks to make it mandatory for the contesting zilla parishad candidates to have passed SSC and those contesting panchayat samiti polls to have cleared at least eighth standard. It evoked very sharp reactions terming the Rajasthan Panchayati Raj (Second Amendment) Ordinance, 2014 as "discriminatory and unconstitutional", the leading legal practitioners and the civil society organisations wrote a letter which alleged that the ordinance was promulgated without any consultation or dialogue with political parties or civil society..Reference was made to the literacy scenario in the state . According to the Census report of 2011 "Only 18 per cent of rural Rajasthan's population has studied beyond grade 5 and only a shockingly low 5 per cent of rural women have education above grade 5. It was further pointed out that "mere literacy - the ability to read and write with understanding - is only 61 per cent in Rajasthan's rural population and there are only 45 per cent literate women in rural Rajasthan Literacy rates for rural Scheduled Castes in the State are even lower."

Haryana has also amended panchayat laws to include educational criteria for contesting panchayat elections in 2015.

The amended law fixes matriculation as essential qualification for general candidates contesting the panchayat elections, while the qualification for women (general) and Scheduled Caste candidates has been fixed at Class VIII pass. The apex court of the country has validated the law

The present Congress government in Rajasthan has done away with the education criteria. True it is that the pre-requisite of educational criteria brought forth some talented first timers like Chhabi Rajawat, the first MBA sarpanch in the Tonk district of Rajasthan who could make a difference in the performance sheet of the concerned panchayat. But it raised a basic question as it excludes a large number of poor villagers to contest elections. It is undemocratic. It could have been very useful if the state could have ensured that all the villagers have at least eighth standard education.

Participatory Democracy: The Working of Gram Sabhas

Gram Sabha did not figure prominently in the scheme of the *panchayati raj* introduced in most states in early 1960s. We find from the report of the Asoka Mehta that the sporadic efforts to revive the institution were not successful due to "the lack of interest on the part of the office bearers and the apathy on the part of the public, the *gram sabha* has not been functioning satisfactorily."

While the constitution makes it mandatory to establish *Gram Sabha* at the village level, it does not stipulate any details regarding the structure, powers, and functions of this institution. In terms of Article-243G these details are to be spelt out in the *panchayati raj* legislations passed in each state in compliance with the 73rd amendment of the Constitution. Accordingly all the state governments have provided for the institution of *Gram Sabha* in their respective panchayat legislations. But the jurisdiction of the *Gram Sabha (GS)* in state legislations is too big to facilitate effective participation of the people...In states like Kerala, West Bengal and Orissa the problem has been resolved by creating another body down the line at the electoral

constituency level to ensure effective participation of the people. (Datta, 2019)

Hardly any State Acts had empowered the GS to have control over the GP and to take final decisions in matters of village development. Its role is only advisory. The accountability of the GP to this body has also not been clearly spelt out in most of the state legislations.

In most of the states the functional domain of the GS is limited to discussions of annual statement of accounts, administration report, and selection of beneficiaries for poverty alleviation programmes. Only in a few states like Haryana, Punjab and Tamil Nadu the GSs enjoy the powers to approve the budgets.

The *Gram Sabhas* are yet to take off properly in almost all the states²⁴ Reports from the states indicate that the *Gram Sabha* meetings are not being held regularly. The Institute of Social Sciences team had found in a village in Madhya Pradesh that by December 1995, three meetings were held as against the legal requirement of six meetings. In West Bengal the Government has decided in the month of May 1919 that Gram Sansads would not be held in May-June because of the extreme political heat in the villagers after the results of the last Lok Sabha elections.

The MP study done by Participatory Research in Asia (PRIA) group of researchers show that majority of them did not attend meetings because the people felt that nothing happened at such meetings: Nirmala Buch conducted a study of 11 Gram Panchayats in MP in December 1997 and found that far from an adequate number of GS members attending the meetings even all the panchs were not present. To cap it all, there was no quorum in more than 50 per cent of the GS meetings. There is a provision for mandatory attendance of one-tenth members in the Gram Sabha.

The Participatory Research in Asia team has noticed that although meetings are being held almost regularly, quorum is hardly achieved. And surprisingly, despite the lack of quorum, the proceedings are prepared. While talking to the members present in the meeting, the researchers felt that many of them

were confused about the role of the *Gram Sabha*. Some of them perceive the *Gram Sabha* meetings as the political meetings, and the only function of the *Gram Sabha* is to prepare the list of beneficiaries under the different anti-poverty programmes.

An authoritative survey of panchayati raj by NIRD reports as follows: almost all the State Acts have provided for *Gram Sabha* but its functions have not been spelt out in detail. Consequently, these institutions by and large continue to function ineffectively, though the meetings are generally held as prescribed. The purpose is hardly served in the absence of clear and direct mandate. More often than not, there is a tendency to conduct the meetings in a formal manner and finalize the proceedings in haste. The prescribed quorum is also not given due importance. The absence of women folk in the meetings has been a common feature. The participation of the people belonging to the weaker section has been marginal. Lack of literacy makes it difficult for many to effectively voice their demands in the meetings. What John Stuart Mill said long back holds good for all time. He argued that universal education must precede universal enfranchisement.

But the fact still remains that in some of the States *Gram Sabha* meetings are generating a new atmosphere in the countryside. Social auditing at the *Gram Sabha* meetings has also started yielding desirable results. The *Gram Sabha* meeting in Karnataka successfully combated the time-honoured Devdasi system, which prevailed in 167 villages of Belgaun district. The UMA Research team of Bangalore had witnessed a *Gram Sabha* meeting at Indore *Gram Panchayat* in Uttar Kanada district (UMA Prachar.) The *Sabha* witnessed uproarious scene when the people demanded an explanation from the secretary about the activities despite the fact a handful of members were familiar with the Act. Most of the questions were raised by the youth. The elders had hardly opened their lips.

Women empowerment

Women hold a special place in the current discourse on

development and governance in which the spotlight is on inclusiveness. The UN warned as early as in 1997 that if development is not engendered, it is endangered. Women development and empowerment form part of what is popularly known as the Millennium Development and Sustainable Development Goals.

During nationalist movement women in India took active part in politics. Women of all classes and walks of life joined picketing, collected donations, courted arrest and were imprisoned in distant jails. The Constitution of India guarantees equal political rights to women and leaves scope for positive discrimination. Women's movement in India has debated the logic of reservation for women as a measure of positive discrimination in political institutions and governance at different points of time. In 1929 women leadership rejected the idea as a retrograde step. Acceptance of the principle of gender equality in the Fundamental Rights Resolutions in 1931 and the Constitution of Independent India seemed to have settled the issue at that time. In 1939-40 the Women Sub-Committee of the National Planning Committee rejected the idea of reservation categorically. The National Perspective Plan (1988) for women dwelt on the question of political participation of women at the grassroots democratic institutions. The Core Group set up by the Government of India pointed out that political power and access to position of decision-making and authority are critical prerequisites for women's equality in the process of nation building and argued for reservation of seats for women. The Seventy-Third Constitution Amendment provides for one third reservation of seats and posts of chairpersons for women in urban local bodies. Quite few states including Bihar, West Bengal have introduced 50 per cent reservation of seats for women in panchayats.

The field studies indicate that the increase in the numerical presence of women has led to marginal change in the status of women elected representatives in their families and society. They have started asserting their rights, raising their voices and organizing themselves to protect the interests of women in

particular. They have also started learning how to play their roles effectively and discharge their responsibilities properly in the institutional framework.

But they are experiencing lots of difficulties at different levels. The researchers have identified the challenges at three different levels mentioned below - (Datta, 2013)

Level: Individual and family

- Most of them are first timers—no experience
- Financial dependence on the husbands or on the other members of the family
- Domestic duties remain unaltered and pressure on time
- Lack of required education
- Lack of self-confidence

Level : Social and Political

- Lack of adequate political support after the elections are held
- Holding meetings at inconvenient hours and often without notice in time
- Lack of solidarity as women members are divided either on caste, community or political lines
- Social norms and customs constraining women's rights
- General social perceptions about the women
- Lack of strong women's organizations

Level : Legal-Institutional

- Male non-co-operation —males often do not allow to speak—males often ridicule them making them reluctant to speak
- Males arrive at consensus—women to consent
- Lack of experience to make speeches and hesitation
- Lack of information
- Lack of decentralisation through sub-committees
- Allotment of insignificant portfolios

- Bureaucratic resistance
- Arrangement of rotation for the reservation of seat
- Two children norm

There is another set of parallel bodies in some states where exist traditional *panchayats* with different legitimising sources. They have a fairly long historical past (Kumar, 2012). In Maharashtra, for example, there exist village “collectives” called *gavkis*. The *gavki* is constituted by the upper caste elites, the rich and undoubtedly, only the patriachs of the village, women excluded. Before the amendment of the constitution these bodies functioned alongside the elected *panchayats*. Unfortunately, they continue even today. Lele narrates an interesting case of how a *gavki* defied the elected panchayat. The *gavki* decided to auction sand from the riverbed and the money earned was to be a contribution to its own fund. The GP raised objection to it leading to a conflictual situation. The persons who raised objection to this issue, were the more informed active villagers, some *dalits* and women, associated with a local NGO who were in favour of the *panchayats*. However, they do not have strength to go against the *gavki*. The *gavki* has been found to be more effective in areas where women or *dalits* are in power. Thus, as Lele rightly observes “reservations which intended to empower both these marginalised sections in rural governance are being made ineffective by the established powers in the rural areas” (Lele, 2001).

Caste *Panchayats* in some states have outgrown their functions as local dispensers of justice. Recently a caste *panchayat* in Nauranjabad village in UP’s Meerut district ruled that a young woman pregnant with the child of her second husband, return to her first husband who had reappeared after five years. The argument was that the first husband, though assumed dead, had never divorced her. Married off at just 14 to soldier Mohammed Arif Gudiya had barely spent a week with him when Arif was called to duty at Kargil War. Declared deserter by the army soon after he was given up dead as time went by. After four years ‘widowed’ Gudiya’s parents with the consent of the community

married her off to her cousin Toutiq. Gudiya became pregnant. Now the caste *panchayat* declared her second marriage illegal. The constitutional *panchayat* could not do anything, not to speak of being consulted..(The Outlook, 2004)

The constitutional amendment has given women a political space in panchayats but back home they do not have an independent space. Long ago in 1929 the issue was raised by Virginia Wolf in *her A Room of One's Own*. The first Nobel laureate in literature in Asia, Rabindranath Tagore wrote two novels in 1929 *Jogajog* and *Strir Patra* where he portrayed how lack of an independent space had posed a challenge to women—characters in the novel.

And it is here where the state has to play a very important pro-active role. Will the patriarchal state play this role? The task is difficult. The reservation of seats may be said to have brought winter for women. The spring cannot therefore be not far behind. How much time it would take? It might take time because it is a civilizational change, a change in the objective conditions of the society and psyche of the society The experience tells us that women have to prove that they are as efficient and effective as men are and have to organize themselves under one umbrella forgetting their caste , class, religious, political or other differences .

It has to be kept in mind that Indian society does not still seem to have consensus on the question of political empowerment of women. It is evident from the fact that the bills for reservation of seats for women in Parliament have failed to garner necessary support number of times. It is this hard rock of patriarchy which has to be broken otherwise engendering local politics and governance through reservation of seats in local bodies would remain a tokenism And given the situation this work has to be initiated by women themselves and the state is required to stand by the side of women and to play a pro-active role.

Concluding Observations and Reflections

It is clear that the Western liberal concept of local self

government drawing its impulse from the local areas has never been practised in India. Local governance system during the days of the colonial rule emerged out of the economic, political and administrative compulsions of the colonial rulers. The freedom movement under the leadership of Gandhi highlighted the need for developing and strengthening rural local governance, but the emotions generated died down because of the lack of objective conditions. The new ruling classes (politicians and the bureaucracy together) paid a lip service to democratic decentralization because they were essentially interested in strengthening their political support base. The first generation rural local governance failed to strike firm roots because of the inadequate political support and bureaucratic resistance coupled with socio-economic realities of rural India. The institutions imposed from the top took shape on the ground in which castism, communalism and economic inequality sharply divided the villagers. The institutions were captured by the elites who used them for distribution of patronage and domination in the villages. One can remark that colonial tradition of local governance continued unabated in post colonial India.

Immediately after independence there was a political need to strengthen the panchayati raj in order to co-opt the village leaders and to use them for strengthening the rural support base of the ruling party. The emotional wave about the historic role of the ruling party in the struggle for India's freedom that swept the nation, was primarily confined to urban India. It was therefore necessary to rope in the rural influentials, who would be working for the party in the name of non-party panchayats and fairly large chunk of them came from high castes and landlords. Besides, the colonial rulers became compelled to initiate the process of decentralization through local bodies to ensure payment of taxes which became necessary for the repayment of huge local loan taken by the British rulers to meet the expenses of the Sepoy Mutiny. Added to it was the realization by the liberal British rulers that the state had some social obligations to the citizens for which fund were necessary. No less important was the realization of

the colonial rulers that enlightened educated middle class has to be co-opted to tame the nationalist movement. Thus colonial model of decentralization was neither demand driven nor spontaneous but compulsion driven to ensure consolidation and entrenchment of the colonial regime and to weaken the nationalist struggle. Second, the same consideration might have contributed to the motivation of the policy makers in 1992 when they decided to re-invigorate rural decentralization process through constitutional amendment in 1992. Incidentally, the Constitution was amended at a point of time when the country adopted neo-liberal policy. One may the policy shift called for creating a set of leaders in the villages who would be able to make the people understand the practical implications of the policy shift to tame their reactions against the state because this policy is likely to weaken the state and promote privatization. And it is needless to mention that it is likely to adversely affect the interest a large chunk of rural population who are poor and who have to fall back on the state for their bare minimum living. Third, the Constitution was amended to strengthen local governance in rural India without resolving basic contradiction which is rooted in the existing arrangement of centre-state relationship. One may presume that the political actors who took the initiative to amend the Constitution, were aware of the contradictions but carefully and deliberately avoided the issue as the resolution of the contradiction would call for starting the process of decentralisation from the top before creating decentralised structures at the bottom through constitutional amendment .It meant, in fact, restructuring of the existing distribution of powers and functions between the centre and the states as the first necessary step. The Constitution was amended by the centre, but local government continues to be in the state list. This is basic contradiction.

The constitutional attempt to break colonial tradition in 1992 does not seem to be working properly on the ground because the old threats to local democracy in rural India lie deeply embedded in Indian constitution, polity and economy.(Datta, 2009) The

demand for a fundamental restructuring of the centre-state relationship was first strongly put forward after the re-organisation of the country in 1950s by the DMK Government in Tamil Nadu and the leftist government in Kerala , as it created contradictions between decentralized polity and centralized constitution. The Indian state had to appoint a Committee popularly known as the Sarkaria Commission to review this issue again in 1980s but nothing substantive has emerged so far. The National Democratic Alliance government in Delhi had taken steps towards this direction but without any results.. All these initiatives underscore the need for a critical re-examination of this aspect of the Indian Constitution as an essential step to empower local government in rural India.

Can a weak state government deliver a healthy baby of local self government? The point was hinted at by E.M.S. Namboodiripad, who gave a dissenting note in the Report of the Asoka Mehta Committee. Another contradiction raised by EMS Namboodiripad relates to the distinction between regulatory and developmental functions. The *panchayat* bodies have been entrusted with the developmental functions but they have been given no control over the regulatory machinery of the state at the village level. This distinction weakens the base of local democratic body and retards its functioning. The constitutional amendment has not addressed this issue.

It has been repeatedly stressed by the protagonists of local governance that there is need for bottom up pressure for lubricating the local government machinery. It calls for adequate awareness on the part of the local electorate. Universalisation of basic education as mentioned by J.S. Mill long back, is a *sine quo non* for this purpose but it is still a far cry.

The fact however remains that the constitutionalisation of the local governance has changed the legal status of the panchayati raj system. Panchayati raj is no longer an idea but a practice. Elections can no longer be left to the sweet will of the ruling parties or parties at the state level, as had been the case earlier. The constitutional provisions have laid the foundation stone of local government the superstructures of which have to

be built up for which what is urgently needed is political will coupled with spontaneous initiative on the part of the people. There is some ray of hope following the rise and growth of the civil society organization in India working for democratization of governance. Right to information has strengthened their hands. But one has reasons to be doubtful about the bright future of grassroots democracy because globalization and liberalization are hitting the "local "hard. The experience of over the last few decades clearly shows that there is lack of effective governmental will to promote decentralisation. One may argue that the current emphasis on local autonomy and resource mobilization for financing local services smacks of the colonial brand of local governance.

Secondly, there is no separate constitution for the state governments in India as in the USA. There seems to be a lurking fear among the political actors at the state level in India that decentralisation would amount to reducing their limited powers. In a multiparty system of democratic government with a strong unitary bias as in India, it is almost unavoidable. This fear cannot be removed without empowering the state governments as well

Before I conclude let me draw the kind attention of the distinguished members of the audience to some of the basic threats to decentralization as identified by scholars in the light of their empirical studies in developing and transitional countries,

First, as democratic decentralization threatens the traditional power holders, higher level political actors and bureaucracy, they would try their best to arrest the process. The traditional power holders and higher level political actors will fight tooth and nail to oppose decentralization if decentralization changes their power base and the patronage resources. The members of the bureaucracy will join them if they find losing control over resource allocation and decision making powers. They may resist directly or through obfuscation.

Second, it needs to be spelt out in clear terms that political will is not always and in every situation the key variable for decentralization.

- Political incentives shape the decisions of policymakers more than political will.
- Incentives to decentralize may not be “noble” goals such as democracy and development.
- Incentives to decentralize can include maintaining a regime or extending its power, gaining electoral advantages for a governing party, extending patronage networks, and courting donor support.

Third, there are also other threats to decentralization that emerge from its incomplete or poor implementation. Decentralization is threatened when the wrong mix of powers is devolved, encumbering local authorities without giving them sufficient resources and authority to be effective.

Fourth, it is threatened when non-representative or unaccountable actors are empowered, taking authority away from democratic actors or from the public arena. It is also threatened when local actors are so restrained by oversight that they have no room to act independently on behalf of local people. It had happened in during the Left Front regime in West Bengal (Datta, 2016)

Fifth, when local authorities cannot deliver goods or respond to local needs they cannot gain respect and legitimacy or engage local population in public action. These threats are playing a big part in delaying decentralization across Africa. .

Sixth, the experiences of Uganda, Rwanda, and South Africa illustrate that whether decentralization is demanded by the grassroots committees of the blacks as a way of dismantling apartheid as in South Africa or supply driven engineered from the top through consultations and pilot programs as in Uganda, or directly driven from the top as in Rwanda, the process of agreeing on the exercise of shared power and authority should not be taken for granted. No matter through which route the journey of decentralization begins, support for decentralization comes through patient and sustained negotiation, sensitization, persuasion, demonstration of positive results and sometimes when necessary, through coercion.

Seventh, it is a fact that decentralization is not one-shot action, but an on-going process that constantly engages the relevant stakeholders and actors in order to produce the desired results.

Finally, if decentralization has to be successful, it needs to be conceived not merely as the transfer of power and authority to local governments but also to the people because it is the initiative of the people which sustains it. The locomotive of decentralisation is grassroots initiative and pressure. This requires innovative ways of inventing, re-inventing and institutionalizing the interface between the people and their local governments (Ribot, 2002)

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