

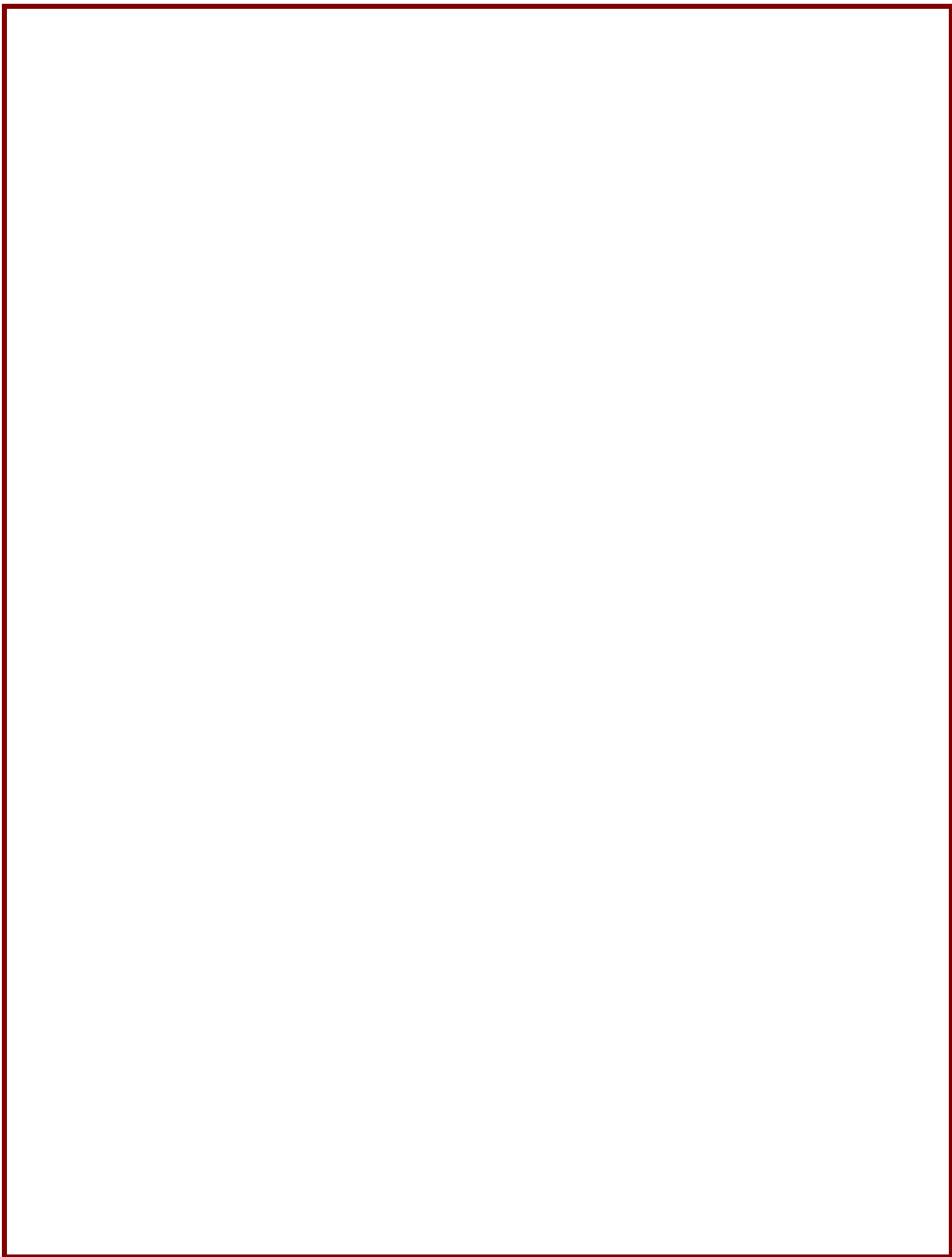


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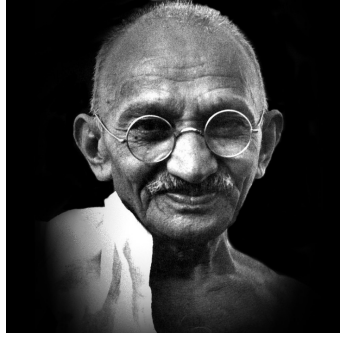
THE PATH TO GRAM SWARAJ IN KARNATAKA

REPORT OF THE
KARNATAKA PANCHAYAT RAJ ACT
AMENDMENT COMMITTEE

NOVEMBER 2014



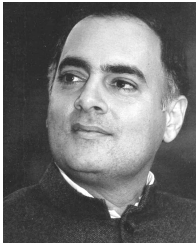
DEDICATED TO THE PIONEERS



Shri Mohandas Karamchand Gandhi



Dr. Babasaheb Ambedkar



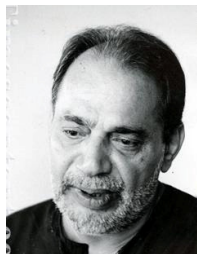
Shri Rajiv Gandhi



Shri B D Jatti



P. V. Narashima Rao



Shri Ramakrishna Hegde



Shri Abdul Nazeer Sab



Shri Veerappa Moily



Shri M Y Ghorpade

OUR GRATITUDE TO

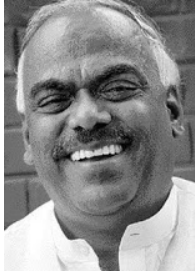


Shri Siddaramaiah
Chief Minister of Karnataka



Shri H. K. Patil
Minister for Rural Development and Panchayat Raj

CHAIRPERSON



KANADAM RAMAIAH RAMESH KUMAR, a Member of the Karnataka Legislative Assembly and former Speaker was born in Srinivasapura Taluk, Kolar District. Influenced by Karl Marx as a young boy, he has practised a 'left' ideology and relentlessly served his constituency for more than 35 years. Born into an agricultural family he still farms for a living, and is a linguist, nature lover and connoisseur of music. A strong critic of the failures in our system, he supports his stands with threadbare analysis. He believes in the capacity of people to take their own decisions, respects and honours their right to self governance and is a staunch believer in complete devolution and Panchayat Raj.

CORE COMMITTEE CHAIR



C. NARAYANASWAMY, a former MP from Bangalore North, born in an agricultural family, is an authority on rural development, Panchayat Raj and decentralization. He has worked with Shri Mani Shankar Aiyer and Prime Minister Shri Rajiv Gandhi. He has been synonymous with the evolution of Panchayat Raj in Karnataka. A lawyer by profession, he has represented the cause of farmers and served Karnataka in several political and administrative positions. As President of Bangalore Rural Zilla Parishad, he introduced innovative programs that won him State and National Awards. He also conducts training programs on the subject for senior officials and elected representatives.

CORE COMMITTEE MEMBERS



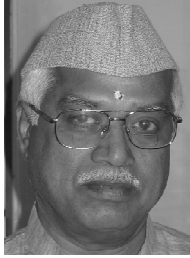
H. D. AMARANATHAN is a practising Advocate, specialised in Constitutional Law and Panchayat Raj Institutional Affairs. He has handled several cases related to election matters and Constitutional provisions. He was a Non Official Director of the Vishweshwaraiah Gramina Bank of Mandya District from 1986 – 2001 and is presently a Member of the Academic Council of the Karnataka State Law University. Specialised in Legislative Drafting he has helped shape several Bills and Legislations and drafted Rules and Regulations and By-laws. He is an authority on legal history and precedents.



G. C. BYYAREDDY is one of the leaders of the Communist Party of India (Marxist) and the Vice President of the Karnataka Prantha Raitha Sangha. He hails from Chintamani, Chikaballapur District. Son of freedom fighter G. S. Chowdappa, he was the State President of the Student Federation of India and an activist of the Kissan Sabha. Hailing from a rural background he is familiar with the problems faced by villages and concerned with the neglect of rural infrastructure. He is committed to strengthening Panchayats to meet the needs of the rural population to obtain the basic amenities that urban centres enjoy. He sees devolution and Panchayat Raj as a means to this end.



M. CHANDRA POOJARY is a Professor at the Folklore University, Haveri, whose present area of research is the 'Theory and Practice of Development' including Local Governance with special reference to Panchayat Raj System. The author of several major publications and research articles among which are Deshiyateya Nerallally Vikendrikarana and Samudaya mattu Sahabhagitva, he has participated in numerous national and international forums. His 'Peoples Plan or Participatory Planning' – a method of participatory planning has been refined and used by the State Institute of Rural Development, Karnataka.



D. R. PATIL was a former member of the Zilla Parishad, Dharwad and Member of the Legislative Assembly of Karnataka is from Hulikote, Gadag constituency. He studied to be a Mechanical Engineer and since 1979 has headed several Cooperatives in the State and Centre. He began his political career as a Member of the Dharwad Zilla Parishad and is now the General Secretary of the KPCC Bangalore. He has represented his constituency as a Member of the Legislative Assembly from 1992 to 2007. Deeply committed to devolution and Panchayat Raj since the 1980's, he has been personally responsible for shaping several affirmative legislations in this regard.



NANDANA REDDY is a social and political activist and the Convenor of the Karnataka Gram Panchayat Hakkothaya Andolana and the founder of the Concerned for Working Children that was nominated for the Nobel Peace Prize. Born into a Socialist family, she is also a trade unionist and writer, and the author of the Child Labour [Employment, Regulation, Training and Development] Bill, 1985. She served as the Chairperson of the International Working Group on Child Labour facilitating studies in 36 countries to recommend strategies to address child labour and is also a national and international consultant and designer of capacity building programmes.



VENKATRAO YESHWANTRAO GHORPADE, educated in India and the US, is the brother of late M. Y. Ghorpade, Finance and RDPR Minister, Karnataka. An electronics engineer, he established electronic industries in Sandur to provide local employment. He is on the Governing Council of the Sandur Education Society that runs schools and technical institutes. A promoter of Cooperative Banking, he established the first 'Mahila Bank'. He served as the Zilla Panchayat President, Bellary District, and is now the Secretary of the KPCC.

MEMBERS



ALLAMA PRABHU PATIL, a member of the Legislative Council of Karnataka representing Gulbarga Local Authorities Constituency, was a member of the KPCC 2010 Campaign and Manifesto Committee. He has served his District as President of the Gulbarga Zilla Panchayat, District Congress General Secretary, President and Member of the University Academic Council, Member of the Central Jail Selection Committee, Public Accounts Committee and is the General Secretary of the Indo China Friendship Association. He is the President of the Karnataka Horticultural Federation Baglur, is now the Mandal Panchayat Pradan, Nelogi, Jewargi Taluk, and member of the Mahela Makkala Samathi.



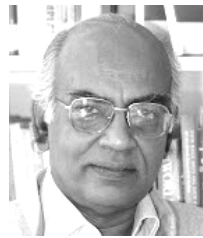
AMARSINH VASANTRAO PATIL, is a son of the late Vasantrao Patil who was known as the 'Tiger of Raibag' and a Cabinet Minister during the Devraj Urs and Ramkrishna Hegde governments. Amarsinh was a Zilla Panchayat President from Belgaum District from 1987 to 1993. He hails from Bekkeri, Talluk Raibag, Distict Belgavi and has represented his constituency in the Lok Sabha from 1999 to 2003. He obtained a LLM from the University of Cambridge and became a Barrister at Law, Middle Temple. As a student he was a Fellow of the Cambridge Common Wealth Society [London].



T. R. CHANDRASEKHARA is a retired Professor of the Department of Development Studies, Kannada University, Hampi. With a PhD in Economics his area of specialisation is Development, Human Development and Gender, he is the author of several Research Papers and his Publications include *Development Ideas of Amartya Sen* and *Gender Relations and Development*. Now he is a member of the Quality Monitoring Group, DHDR, Planning Department, Government of Karnataka. He has won several awards including the Karnataka Sahitya Academy Book Award, 2000, the Kavyananda Puraskara and the Charaka Development Journalism Award.



CYNTHIA STEPHEN is an Independent Researcher and Trainer with a special focus on Gender, Poverty, Development and the Rights of women and children and the marginalised sectors. With a special interest in the political empowerment of women she has published many papers and articles on Social Policy in national and international journals. Till March 2014, she was the State Programme Director of Mahila Samakhya Karnataka, a Government of India project for the Empowerment of Women through Education.



GEORGE MATHEW is the Founder Director and Chair of the Institute of Social Sciences, New Delhi. A PhD in Sociology from JNU he was a Visiting Fellow and Professor at Univ. of Chicago and Padova respectively. A Fulbright Scholar and member of several national committees, national and international boards, he is currently specialising in systems of local government, decentralisation and gender equity. Author of several articles and research papers, he won the National Best Film Award for 'Swaraj: The Little Republic', a strong depiction of women's empowerment in rural India.



F.H. JAKKAPPANAVAR, a strong Ambedkerite was the Executive Vice President of the Dr. Ambedkar Foundation, Ministry of Social Justice and Empowerment, Government of India. He hails from Navalli Village, Navalgund Taluk of Dharwad District, is the son of a freedom fighter. A national labour leader promoting reservations for the SC/ST he has founded several quality education institutions from primary to the degree level and Credit Cooperative Societies for the deprived classes, he is an advocate for the equality among all Indians with the theory and practice of inclusive growth.



T. JANARDHAN HULIGI, son of T. Satyanarayana, hails from Huligi, Munirabad and was the Zilla Panchayat President, Koppal District and is now a Member. While he was the President he facilitated the construction of 54,000 individual toilets in his District, the first to do so in the State. He was a Member of the Mandal Panchayat, President of the Youth Club, President of the Water Users Co-operative Society and President of the Salar Jung Sugar Mills Worker's Union. He was intensely involved with the struggle for the implementation of land reforms in Karnataka and believes that local governments should have a greater level of autonomy.



K. S. PUTTANNAIH, born in Kyathanahalli Village, Pandavapura Taluk, Mandya District is a Member of the Legislative Assembly from Melukote, and the President of Karnataka Rajya Raitha Sangha. A Graduate from Banumaiah College, as a student he empathised with the suffering of farmers and bonded labourers and eventually entered politics as a member of the Karnataka Rajya Raitha Sangha. He is also the Acting President for Karnataka Sarvodaya Paksha. He first contested the Assembly Elections in 1994 and got elected as a Member of Legislative Assembly from Pandavapura constituency.



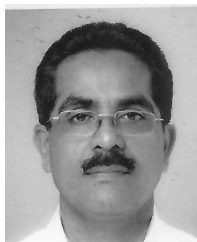
QUAZI ARSHAD ALI, a former Member of the Karnataka Legislative Council from 2004 to 2006 representing the Bidar Constituency, is the President of the District Congress Committee Bidar and took charge on 2013. A journalist by profession, a prolific reader and writer, he is the editor of the Hindi daily Bidar Ki Awaaz and the Urdu daily Surkh Zameen. He is the recipient of the Rajyothsava and Press Academy Awards. A leader of the Muslim community, he has been promoting the cause of the minorities through his writings and publications.



T. R. RAGHUNANDAN is an international consultant and advisor on anti corruption and decentralised public governance. He has more than twenty six years of experience as a high ranking civil servant (IAS) and specialises in formulating policy regarding local governments, decentralisation and anti-corruption and also offers training and mentoring on these subjects. His passion is restoring vintage cars and he collects and restores antiques. As Director and co-founder of Avantika Foundation, he is building the Museum of Movement, to showcase India's romance with transport.



SHANTAMMA M. GUJJAL is a former Zilla Panchayat President from Dharwad and has come up through the ranks through dedication and hard work. She was first a Mandal Pradhan and then the President of the Shirakol Gram Panchayat. Very active in the Mahila Congress, she is now a member of the Hubli-Dharwad Corporation District Congress Committee. Winner of the Devaraj Urs Award for the best Zilla Panchayat President in Karnataka in 1999, she has also helped to promote the cooperative movement and supported several civil society organizations.



T. BALACHANDRA SHETTY, an Advocate by profession, was born in Tallur Village of Kundapura Taluk. He was a member of the Kundapura Taluk Panchayat and served as its Vice President. He was instrumental in organising the Karnataka State Federation of Taluk Panchayat Presidents and Vice Presidents and served as its state president. He trains members of Panchayat Raj Institutions and is actively involved in the Karnataka Gram Panchayat Hakkothaya Andolana and the activities of The Concerned for Working Children (NGO). He is a Notary Public appointed by Govt. of India.



SUSHIL KUMAR BHIMAPPA BELAGALI hails from a family of freedom fighters and the grandson of Rayappa and Gangavva Belagali. He is Director of several Cooperative Banks, was the Vice President of the Bagalakot Zilla Panchayat and the District Vice-President and General Secretary of the Youth Congress. He is an executive member of the Jamakhandi Dalit Committee, Honorary President of the Jamakhandi Taluk Rural Development Institute and Director of the Farmers Welfare Committee. He was a member of the District, Taluk and Zilla Panchayat election committee for the Congress Party.

MEMBER SECRETARY



G. DAKSHINA MOORTHY is specialised in Industrial and Administrative Law and holds an M. Phil in Labour Studies. An Advocate and Consultant, was a member of the Bangalore Bar. A Former District Judge and Former Secretary to Government in the Karnataka Department of Parliamentary Affairs and Legislation he has worked on several Joint Select Committees, Select Committees and Subordinate Legislation Committee and Legislature Committees. He is also a former First Director, Karnataka Institute for Law and Parliamentary Reform, a Government of Karnataka Initiative.

CHAIRPERSON'S NOTE

Chairing this Panchayat Raj Act Amendment Committee has given me and the members of this Committee a much needed opportunity to consider in depth what ails the Panchayat Raj system in Karnataka. This has been an issue of great concern especially as Karnataka is considered to be one of the forerunners of decentralisation and devolution in India.

We find the Karnataka Panchayat Raj Act of 1993, so carefully crafted by Shri M. Y. Ghorpade, has become obsolete, and instead of enabling devolution in the true spirit of Gram Swaraj, it has been transformed through amendments and government orders into a mere 'delivery agent' of State and Central schemes.

*An age old system that has survived for more than 2000 years, shaped by Shri Abdul Nazir Sab and motivated by Ramakrishna Hegde's slogan 'power to the people' in 1983 and given Constitutional status by Shri Rajiv Gandhi's determined and far sighted vision without which Panchayat Raj would not have become a reality, needs a new impetus and half way measures will not suffice. As envisaged by Shri Rajiv Gandhi, **"what is needed is a systemic solution"** and total devolution to the three tiers of Panchayat Raj is the only way. Refusal to acknowledge PRIs their Constitutional right to be autonomous units of self-government is a gross Constitutional violation and an attempt to mangle the spirit of Gram Swaraj.*

*We have tried with our recommendations to give legislative shape to Shri Rajiv Gandhi's dream that **"Panchayati Raj is not only (an) instrument for bringing (in) democracy and devolution, (it is also) a charter for ending bureaucratic oppression, technocratic tyranny, crass inefficiency, bribery, jobbery, nepotism, corruption and the million other malfeasances that afflict the poor of our villages, towns and cities."***

In this regard, this Committee felt the need for a total revamp of the system and instead of tinkering with the existing amendment ridden legislation, were of the opinion that a New Act called the 'Gram Swaraj Act' would be the most prudent course of action. However, for reasons of expediency, and in the light of the forthcoming Panchayat Raj elections, the Committee decided to first present the Report with the Amendment Bill followed by the 'Gram Swaraj Act' [Draft Bill].

With these proposed amendments, especially with the suggested protocol regarding electoral reforms to prevent the capturing of local bodies by vested interests that has been one of the reasons for the decline of the entire political system, Karnataka will once again be a 'path breaker' and in the forefront of democratic decentralisation and we will not have to look to Kerala and West Bengal for answers. This may also prove to be a precedent for the frozen Election Commission of India that appears paralysed and unable to take affirmative action, to bring about much needed changes in weeding out criminalisation and corruption in our polity.

I gratefully acknowledge the contribution of every member of this committee, the Member Secretary and all those who have contributed with their valuable time, insights, experience and knowledge. The Committee worked as a single soul with a unified purpose.

On behalf of the Committee I extend our gratitude to the Honourable Minister for Rural Development and Panchayat Raj, Shri H. K. Patil for constituting this committee and the Honourable Chief Minister, Shri Siddaramaiah for his valuable advice, support and encouragement.

Our thanks are also due to the Department of Rural Development and Panchayat Raj, the Principle Secretary, Shri Vijay Basker and all the officials who rendered assistance and support during the course of our deliberations.

(Shri K. R. Ramesh Kumar)

Chairman

Panchayat Raj Act Amendment Committee

Department of Rural Development and Panchayat Raj

Government of Karnataka

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PART I: BACKGROUND

CHAPTER I

PANCHAYAT RAJ – A HISTORICAL PERSPECTIVE

*“Our aim must be to **restore** to the villages the **power** to meet their own requirements”*

- Rabindranath Tagore

Decentralisation is not a post-colonial contemporary phenomenon as popularly believed or a process of decentralisation adopted during the 1980s or 1990s as part of a policy prescription advocated by global agencies though there are some examples of this in developing countries such as Chile, Colombia, Republic of Guinea Bissau (1994), Mali (1993), and Nigeria.

The history of Panchayat Raj or decentralisation in Asia dates back more than 4000 years when villages were powerful self-governing independent units. Gradually their powers were diminished until the advent of British Rule in India, when they were reduced to the bottom of a revenue collection hierarchy. Towards the end of this period, some functions were restored, but it was not till India got her independence that there were concerted moves to reinstate villages to their former positions. This process is still incomplete.

Panchayathi Raj in Pre British Period

The institution of Panchayat Raj is as old as Indian civilisation. It is cited in ancient texts as early as 200 B.C. as Grama Sanghas or village councils. It was an institution where village communities had effective control over civil and judicial matters.

The earliest reference to a '*panchayat*' is found in the Shanti-Parva of the Mahabaratha and is derived from the word **pancha** or 'five', and the institution was called **panchasvanusthitah**, meaning Grama Sanghas or rural communities. A description of these village councils as per the Arthashastra of Kautilya in 400 B.C. is of a village administration that was under the supervision and control of an Adhyaksha or headman and consisted of other officials such as the Samkhyaka [accountant], Anikitsaka [veterinary doctor], Jamgh Karmika [village couriers] and Chikitsaka [physician]. The village headman was responsible for the collection of state dues, dealing with lawbreakers and administering the affairs of the village. The Ramayana of Valmiki, describes the Ganapada or federation of village republics. The headman was called the *gramika* or *grameyaka* in north India and *mununda* in the eastern Deccan in the centuries of the Christian era and *gramukuta* or *pattakila* in Maharashtra, *gavunda* in Karnataka and *mahantaka* in UP between 600 and 1200 A.D.

During the Vedic period, the village was the basic unit of administration that was made up of people's councils of various kinds, one of which was the 'Sabha' that exercised some judicial functions and another, the 'Samiti' that in some cases enjoyed the right of electing the king. The

village headman or 'Gramani' who was nominated and the post was often hereditary, was in charge of the administration of the village as an autonomous unit of self-government. His first duty was the defence and protection of the village, next, the collection of revenue, the custodian of village records and was also the ex-officio of the council and guided the deliberations. The village accountant was the most powerful and ruled the village. The village inhabitants got their concerns addressed through an informal council consisting of elders. The Sabha in the Vedic period was both a village council and a village club and at its meetings the village elders played indoor games, discussed social issues and also transacted village business. The age to qualify for membership was above 35 and below 70.

During the latter part of the Vedic period, the Samiti was dismantled and the Sabha deteriorated into a limited body equivalent to the King's Privy Council. However, in time, village bodies re-emerged as panchayats that managed the affairs of the village with the powers to enforce law and order in Karnataka, Bihar, Rajputana, Central India and Maharashtra. Many non-Brahmins and non-Kshatrayas were members of the Samitis as their signatures have been found on official documents and caste does not seem to have been a factor in the selection of council members.

In the Indo Gangetic plains, there was an interesting and significant variation where the executive body elected by the village councils was made up of representatives of various castes and other groups. In the Mouryan period, the functions of the village council advanced further and began to carry out works of public utility and recreation, settled disputes, and acted as the trustees for the property of minors. However, they did not evolve into regular councils until the Gupta period when they were called *Panchamandalas* in Central India and *Gramajanapadas* in Bihar. A large number of Panchayat Seals were unearthed in Nālānda on correspondence with the Nālānda University. These bodies negotiated with higher tiers of government for concessions and to negotiate the settlement of disputes.

A Chola engraving shows the structure and functions of the village assemblies and their executive committees in Tamil Nadu. It consisted of Primary Assemblies and the Sabha was for Brahmin Agraharas and in many cases both existed. Meetings were called by the beating of a drum and the Primary Assembly elected the village executive or *Alungnam*. The governance of these villages was carried out by five sub-committees much like our standing committees today. No government official was included in these committees and there was no room for party politics. Members were chosen by lot picked by a very young child.

In the Mogul period, particularly in the regime of Sher Shah, villages were governed by their own panchayats comprised of village elders and a head man, a semi government official, who acted as a coordinator between the village panchayat and the higher administrative hierarchy. Akbar accepted this system and made it an indispensable part of civil administration. It was autonomous and exercised powers of local taxation, administrative control, justice and punishment.

The Moguls, on the other hand, introduced elaborate administrative machinery with a hierarchy of officials, particularly in the field of revenue that lasted until the British established their

authority in India. Panchayat Raj Institution survived numerous changes and political upheavals in the ancient and medieval periods till the advent of the British Raj.

British Period

The British came to India as traders. Local governments were hardly their priority and panchayats ceased to be local self governments as the British created local bodies with only nominated members built around trading centres. By 1687, a municipal corporation was formed in Madras on the model of the British town councils with the primary duty of levying taxes for building guild halls and schools. Similar bodies were set up in other major towns to help the British widen their tax collection network.

With the revolt of 1857 imperial finances were considerably strained and it was found necessary to finance local services out of local taxation. Fiscal compulsion led Lord Mayo to decentralise and in order to bring about administrative efficiency in 1870 he introduced the concept of elected representatives in the urban municipalities.

The Bengal Chowkidar Act of 1870, empowered district magistrates to set up panchayats of nominated members in the villages to collect taxes to pay the chowkidars or watchmen engaged by them. This mimicked the traditional village Panchayat system, without the autonomy, powers or the functions. In 1874 the British set up the 'Local Fund Committees' to facilitate local tax collection.

On the other hand, Lord Ripon abandoned the existing system of local government and constituted small local boards through a system of election called the **Ripon Resolution of 1882**. It provided for a large majority of elected non-official members and was presided over by a non-official chairperson. This resolution also proposed the establishment of rural local boards where two thirds of the members were elected representatives. The Royal Commission on Decentralisation in 1909 elaborated on the principles of the Ripon resolution, but they never got implemented.

Montagu-Chelmsford Reforms of 1919 or more briefly known as Mont-Ford Reforms were introduced by the British Government in India to gradually bring in self-governing institutions. The reform was named after Edwin Samuel Montagu, the Secretary of State for India during the latter parts of World War I and Lord Chelmsford, Viceroy of India [1916]. Montagu proposed to the British Cabinet "*the gradual development of free institutions in India with a view to ultimate self-government*". Lord Curzon felt that this gave too great an emphasis on working towards self-government and suggested an alternative.

In late 1917, Montagu went to India to meet Lord Chelmsford, the Viceroy of India, and the leaders of Indian community to discuss the introduction of limited self-government in India and the protection of minority rights.

His Report went before Cabinet on 24 May and 7 June 1918 and was embodied in the **Government of India Act of 1919**. These reforms represented the maximum concessions the British were prepared to make at that time. The franchise was extended, and increased

authority was given to central and provincial legislative councils, but the viceroy remained responsible only to London.

The changes at the provincial level were significant, as the provincial legislative councils contained a majority of elected members. In a system called 'diarchy', that placed the 'nation-building' departments of government such as agriculture, education, public works, and the like, under ministers who were individually responsible to the legislature; while departments that made up the 'steel frame' of British rule, such as finance, revenue and home affairs, were retained by executive councilors who were nominated by the Governors who were often, but not always, British.

In 1921 another change recommended by the report was carried out when elected local councils were set up in rural areas, and during the 1920s urban municipal corporations were made more democratic and 'Indianised'.

The main provisions were the following:

1. The secretary of state would control affairs relating to Government of India
2. The Central Legislature would comprise two chambers- The Council of States and the Indian Legislative Assembly
3. The Central Legislature was empowered to enact laws on any matter for whole of India.
4. The Governor General was given powers to summon, prorogue, dissolve the Chambers, and to promulgate Ordinances.
5. The number of Indians in Viceroy's Executive Council would be three out of eight members.
6. Establishment of unicameral Provincial Legislative councils.
7. Diarchy in the Provinces:
 1. Reserved subjects like Finance, Law and Order, army, police etc.
 2. Transferred subjects like Public Health, Education, agriculture, local self government etc.
8. There would henceforth be direct election and an extension of Communal franchise. "

By 1925, eight provinces had passed Village Panchayat Acts, but these panchayats covered only a limited number of villages with limited functions. This reform did not result in any major democratisation of panchayats but on the other hand, resulted in tremendous organisational and fiscal constraints.

The 1919 reforms did not satisfy political demands in India. The British repressed the opposition, enforced restrictions on the press and people's movement through the re-enactment of the **Rowlatt Acts** introduced in 1919. These measures were forced through the Legislative Council despite the unanimous opposition of the Indian members. Several members of the council including Jinnah resigned in protest. These measures were widely seen throughout India as the betrayal of the support given by Indians to the British war effort. Gandhi launched a nationwide protest against the *Rowlatt Acts* and the unforgettable massacre of people at Jalianwala Bagh in Amritsar in April 1919. This tragedy galvanised the Indian nationalist sentiment and political leaders as Nehru and Gandhi.

At the Indian National Congress annual session in September 1920, delegates supported Gandhi's proposal of Swaraj or self-rule. The proposal was to be implemented through a policy of non-cooperation with the British and the beginning was that Congress did not field candidates in the first elections held under the Montagu-Chelmsford reforms in 1921.

The **Government of India Act 1935** is considered another important stage in the evolution of panchayats in British India. Though the British Government was not interested in village autonomy, they were forced to do so, in order to continue their rule in India and to meet financial necessities. With popularly elected governments in the provinces, almost all provincial administrations felt duty bound to enact legislations for further democratisation of local self government institutions, including village panchayats. However, in a highly centralised system of governance, village autonomy was lost.

Panchayat Raj in Independent India

The Indian National Congress, under the leadership of Mahatma Gandhi, emphasised the importance of Swaraj during India's movement of independence from British rule. The Constituent Assembly of India which was entrusted with the onerous task of drafting the Constitution led by Dr. Ambedkar brought the subject of Panchayat Raj under Article 40 of the Directive Principles of State Policy which reads; *'the State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government'*. Unfortunately, it has taken nearly four decades since the adoption of the Constitution for Panchayat Raj Institutions to travel from the non-justiciable part of the Constitution through to the 73rd Amendment that makes it obligatory.

Because of the perceptive forethought of Shri Jawaharlal Nehru, the first Prime Minister of free India, and Shri S. K. Dey the Minister for Community Development, the Balvantray Mehta Committee was constituted that paved the way for Panchayat Raj in India.

The **Balvantray Mehta Committee** was appointed by the Government of India in January 1957 to examine the working of the Community Development Programme (1952) and the National Extension Service (1953) and suggest measures for their better working. The committee submitted its report in November 1957 and recommended the establishment of the scheme of 'democratic decentralisation' which finally came to be known as Panchayat Raj. The main objective of Panchayat Raj was to settle local problems locally and increase people's political awareness.

This was the first Committee set up after Independence to look into the problems of democratic decentralisation. The Committee made far reaching recommendations. It pointed out that community development programmes were not successful because they failed to evoke local initiative and that in the absence of local initiative and local interest, development would not be possible.

Panchayat Raj Institutions [PRIs] were not only seen as a system of local government that was well organised and decentralised, but also as a means to tackle problems at the grassroots

level, mobilise the potential human resource of the country for economic and social progress; and most of all, building democracy from the bottom up.

The committee laid down five fundamental principles. They are:

1. There should be a three tier structure of local self government bodies [Gram Panchayat at the village level, Panchayat Samiti at the block level, and Zilla Parishad at the district level], with direct elections at the village level that is organically linked through a system of indirect elections, from village to the district level;
2. There should be genuine transfer of power and responsibility to these bodies;
3. The transfer of adequate resources to these bodies to enable them to discharge their functions and fulfil their responsibilities.
4. All welfare and developmental schemes and programmes at all three levels should be implemented through these bodies, and
5. The three tier system should gradually facilitate further devolution and decentralisation of power and responsibility.

These recommendations were accepted by the National Development Council in January 1958.

The committee envisaged a three tier system of panchayats known as Zilla Parishad, Panchayat Samiti and Gram Panchayat and recommended the encouragement of peoples' participation in community work, promotion of agriculture and animal husbandry, promoting the welfare of the weaker sections and women through the panchayats. For the first time, the Committee made recommendations for the co-option of two women to represent women and children.

The recommendations of the Balvantray Mehta Committee came into effect on 1st April 1958 and Rajasthan was the first state to implement it on 2nd October 1959. By the mid 1960s, more than 2,17,300 village panchayats had been established in India. They covered over 96% of the 5,79,000 inhabited Indian villages and 92% of the total rural population. There was enthusiasm in rural India as people felt that they now had a say in the affairs affecting their daily life. These were promising days for Panchayathi Raj Institutions in India and the 1964-65 Report of the Ministry of Community Development stated that younger and better leadership was emerging through Panchayat Raj Institutions and there was a fairly high degree of satisfaction among the people with the working of the panchayats.

The idealism with regard to PRI was indicated in the Third Five Year Plan which said that "the primary object of the Panchayat Raj was to enable people of each area to participate in intensive and continuous development in the interest of the entire population. The elected representatives should be encouraged to view development of PRIs as offering new avenues of service to the people rather than opportunities for the exercise of authority".

The committee observed that there was a need to discover or create representative and democratic institutions that would sustain local interest, supervision and care, necessary to ensure that the expenditure of money upon local objects conforms to the needs and wishes of the locality, invest it with adequate power and assign to it appropriate finances, which would evoke local interest and excite local initiative in the field of development.

The Committee recommended that such a body should be statutory, objective, and comprehensive in its duties and functions, equipped with the necessary executive machinery and in possession of adequate resources. The committee also suggested that it should not be loaded with too much government control. The requirement for real decentralisation and meaningful popular participation was very emphatically stressed by the Balvantray Mehta study team.

Unfortunately, there was a decline in Panchayat Raj Institutions after the mid sixties, mainly because of the tendency to centralise. The elections were not held regularly and the participation of people weakened in these bodies. Inefficiency, corruption, favouritism, uncertainty and irregularity led to their decline. Most of the development programmes were kept out of their preview. Centrally sponsored schemes were initiated; parallel administrative bodies were created and government reduced funds considerably. During this period the bureaucracy got the upper hand and these institutions lost their significance. The village panchayats were made subordinate units of government to implement programmes.

Asoka Mehta Committee (1977)

Against this backdrop in 1977, the Janata Government appointed a Committee with Asoka Mehta as Chairman that was entrusted with the task of enquiring into the causes responsible for the poor performance of Panchayathi Raj Institutions. It was also asked to suggest measures to strengthen Panchayat Raj Institutions. The Committee suggested a two tier system of Panchayat Raj consisting of Zilla Parishad at the district level and Mandal Panchayats at the grass root level as against the three tier system suggested by the Balvantray Mehta Committee. A noteworthy feature of this Committee's report is that it recommended constitutional protection to Panchayat Raj Institutions and further decentralisation of power at all levels and the holding of regular elections to these bodies.

Among their suggestions were:

- The reservation of seats for the weaker sections;
- Two seats reserved for women;
- Adequate financial resources to be devolved to the panchayats;
- The requirement of Constitutional mandates; and
- The need to promote and enable people's participation in developmental activities.

With the fall of the Janata Government, the Asoka Mehta Committee recommendations were not implemented, but a few states including Karnataka formulated new legislation on the basis of the recommendations of this Committee.

During 1980's, two other important Committees were appointed to look into local governments; the **G. V. K. Rao Committee** in 1985 and the **Dr. L. M. Singhvi Committee** in 1986. The G. V. K. Rao committee recommended the revival of Panchayat Raj Institutions such that greater responsibility for the planning, implementation, and monitoring of rural development programmes could be assigned to them. The L. M. Singhvi Committee recommended that Panchayat Raj Institutions should be constitutionally recognised and protected with a new

chapter in the constitution that defines their powers and functions and mandates free and fair election conducted through an Election Commission. This Committee also recommended the appointment of a Finance Commission and that all rural development programmes should be entrusted to Panchayat Raj Institutions by amending Schedule VII of the Constitution.

73rd Amendment Act, 1992

On the 15th May 1989 Shri Rajiv Gandhi the then Prime Minister of India introduced the 64th Constitutional Amendment bill on local government in Parliament based on the recommendations of the Dr. L. M. Singhvi Committee. His passionate plea to Parliament reflected his sentiments and outlined the spirit of Gram Swaraj. His attempts to get this amendment through in Parliament failed due to lack of support in the Rajya Sabha. However, the historic Bill that he piloted received the required two thirds support in the Lok Sabha, but fell through in the Rajya Sabha for want of just one vote.

Similarly, the Constitutional Amendment Bill drafted for both rural and urban local bodies introduced in Parliament during the Prime Ministership of Shri V. P. Singh did not see the light of day as he had to resign as Prime Minister shortly thereafter.

In September 1991, Prime Minister Shri P. V. Narasimha Rao pursued Shri Rajiv Gandhi's dream and a fresh bill on Panchayat Raj, as the 72nd Constitutional Amendment Act of 1992, with some modifications, was introduced and passed in 1992 and came into force as the 73rd Amendment Act on 24th March 1993.

The 73rd Amendment Act for the first time gave constitutional status to Panchayat Raj Institutions and it became mandatory on all State Governments to implement it. This Amendment brought about uniformity in structure and composition of panchayats and the authority to states to endow panchayats with powers and functions. It gave an impetus to Panchayat Raj to promote social and economic development and improve living condition in rural India. The main criticism levelled against the implementation of the Act is that these institutions are viewed as implementing agencies for developmental activities and they are not given the status of decentralised political institutions. Still it was the beginning of what is now called the 'Silent Revolution' and for the first time in the history of Panchayat Raj; it fulfilled the right of SC/ST women to participate in large numbers in local administration.

The Manishanker Aiyar Committee 2013

Introduction

The Report of the Expert Committee on 'Leveraging Panchayat Raj Institutions for the More Effective Delivery of Public Goods and Services', Chaired by Shri Manishanker Aiyer, was guided in their deliberations by the objectives of the National Common Minimum Programme. Some of the salient points are as follows:

1. *"The UPA government will ensure that all funds given to states for implementation of poverty alleviation and rural development schemes by Panchayats are neither delayed nor diverted... In addition, after consultations with states, the UPA will consider crediting elected Panchayats with such funds directly. Devolution of funds will be accompanied by similar*

devolution of functions and functionaries as well...The UPA government will ensure that the Gram Sabha is empowered to emerge as the foundation of Panchayati Raj."

2. That the "village panchayats", referred to in Article 40, and the "local authorities" referred to in List II, are described as "units" of "self-government" not "self-governance". These constitute the origins of Article 243G of Part IX of the Constitution which refers to the three-tier Panchayat Raj system as "institutions of self-government", not self-governance.

Inspiration for the Committee:

Their recommendations were consistent with the Prime Minister, Dr. Manmohan Singh's statement at the Conference of Chief Ministers on 29th June 2004, that:

- "a radical departure" might best be done by shifting from delivery by line departments and parallel bodies to delivery through PRIs responsible to Gram Sabhas in a domain to be defined by Activity Mapping.
- to give "control to local levels to plan for themselves".
- this can only happen if planning from below becomes truly a reality based on their own assessment of locally available resource endowment, resource potential and the felt needs of the people.
- funds need not be tied to specific schemes
- Combine political empowerment with social empowerment.

Summary of Recommendations of this Committee:

- A much higher score on HDI values would be possible if service delivery were to be significantly improved. For this to happen, PRIs have to be given a central role in CSS and State programmes, as a 'radical departure' from the existing design of the programmes and not by token presence of the PRIs. In the Committee's view, the single most important instrument available to promote equity in our system without detracting from high growth would be to use CSS to empower PRIs and Gram Sabhas to promote inclusive growth.
- That devolution is an essential condition for human development, but must be supported by factors such as a more accountable service delivery structure, clear delineation of roles and responsibilities of key departments and functionaries, stringent monitoring mechanisms, increasing public awareness and capacity building of public functionaries at all levels. Further, the Committee is of the view that all other things being equal, the greater the measure of devolution, the more significant the outcomes. Therefore, further strengthening of institutions of local governance is imperative in order to effectively channelize the devolution process towards better service delivery and improved human development attainments.
- The Committee observe that conceptual confusion continues to dog the trail of Panchayat Raj. While the Economic Survey 2012-13 recommends that PRI-centric schemes are essential to effectively articulate the felt needs and priorities of 'the local people, especially the most vulnerable' the Central schemes are not at all PRI-centric.
- The fact that Panchayat Raj is treated in an off-hand manner is reflected in the Economic Survey, which mentions of Panchayats as a throw-away line at the fag end of the Survey,

instead of permeating the Economic Survey's review of all social sector and anti-poverty programmes mentioned in the Eleventh Schedule, points to the need to have an entire chapter devoted to Panchayat Raj in all future annual Economic Surveys.

- The alleviation of poverty and growing inequalities remain largely unaffected by the mere existence of these hundreds of thousands of elected local government. This is principally because the establishment of these institutions of local self-government has not been followed by a structured, scientific, consistent, and sustained process of devolution. All devolution of powers and authority has been *ad hoc*, fitful and sometimes reversed.
- The Committee observe that in the absence of effective empowerment, the political system sees little electoral advantage to pursuing Panchayat Raj beyond the imperatives of Constitutional compliance. Indeed, the paucity of outcomes has also resulted in very little demand for Panchayat Raj at the grassroots. In the absence of effective devolution there is inadequate scope for all members of the Panchayat at any level to be fully involved in the work of the Panchayat and many Panchayat Raj representatives are disillusioned with their not having any clearly defined role to play.
- The Committee believe that it is not an absence of political will that is making Panchayat Raj stumble so much as the unevenness of Panchayat Raj outcomes that is stalling the evolution of the required political will.
- The deficiencies in capacity-building contribute to the poor outcomes. Even when some training is imparted, much of this training bears little resemblance to the tasks that Panchayat representatives are permitted to undertake in the absence of effective devolution. Also, there is little integration between the line departments and the Panchayats and line department officials are rarely trained to work in concert with Panchayat Raj Institutions. On the contrary, the atmosphere in most line departments discourages the evolution of a working relationship with elected representatives.
- The worst consequence of the said failures is distortion of Panchayat Raj in many parts of the country into 'Sarpanch Raj', that is, the reduction of Panchayat Raj Institutions to a nefarious nexus between the President of the Panchayat at the village/ intermediate and district levels, on the one hand, and elements of the bureaucracy, on the other, that have made Panchayat Raj synonymous with the decentralization of corruption in some areas.
- Moreover, in the absence of real devolved powers, there can be no effective collegiate functioning of the PRIs nor any responsibility of the elected Panchayat Raj representatives towards the Gram Sabhas. Hence, attendance at Gram Sabha and even ward sabha meetings in many, perhaps most, States is so poor that that the President of the village Panchayat and his bureaucratic/NGO cohort are able to get away with token, or even bogus, meetings of the Gram Sabha. More often than not, Gram Sabha members find that their elected representatives cannot answer their questions or act on their suggestions because power continues to be vested in the bureaucracy and parallel bodies that fall outside the ambit of the PRIs.
- The Committee strongly recommend that the Central Government set the example by incorporating relevant directions in the advisories in CSS guidelines for accountability towards Gram Sabha. The Committee note that recently, the Ministry of Panchayati Raj has sought to curb the practice of bogus Gram Sabha meetings by seeking to videograph the

proceedings – a daunting prospect as there are more than half a million ward and Gram Sabhas that are required to meet at least four times a year.

- The Committee recommend that in addition to setting the example by incorporating in CSS Guidelines the specific points on which elected representatives and officials of PRIs would be answerable to Gram Sabhas and the statutory rights of the Gram Sabhas to information and grievance redressal, the Centre draft a model Gram Sabha law, based on its own advisories, and circulate the draft to State governments urging that appropriate State legislation be undertaken in this regard.
- Existing deficiencies in effective Panchayat Raj are compounded by the rotation of reserved seats at every successive election. This not only robs Panchayat Raj of experienced elected representatives, it also leaves little or no incentive for elected representatives to do a good job because they will not, in all likelihood, be able to stand again at the next round of elections. The Committee is of the view that PRI reservations for all categories (women, ST, SC, OBC) be frozen for a minimum of at least two, and preferably three terms, so that the reserved PRI categories get the same opportunity as their Parliament/MLA peers to augment their experience and knowledge.
- The Committee note that more effective the processes of devolution, the more meaningful is Panchayat Raj, the more involved are the members, the more lively is the Gram Sabha and the less nefarious the nexus between the lower bureaucracy and the Panchayat members. The demand for Panchayat Raj at the grassroots rises as the effectiveness of Panchayat Raj increases, and, conversely, the less the significance of Panchayat Raj in the daily lives of the people the less do they demand Panchayat Raj.
- The Committee observes that since all States show some progress in Panchayat Raj over time, notwithstanding occasional reverses, it would also seem that if the accent were to change from didactically seeking better Panchayat Raj to incentivizing Panchayat Raj, both the political will to promote Panchayat Raj might grow stronger and the electoral rewards of grassroots empowerment would become more obvious.
- In order to incentivise the Panchayats the Committee recommend that the 14th Finance Commission change their pattern of untied grants from “basic and performance” grants to grants for incentivizing States to devolve and grants for PRIs to be rendered transparent and accountable in their transactions. Each of these grants may, if the 14th Finance Commission so desires, be divided into a basic grant and a performance grant, but it would be more realistic to expect genuine, meaningful incentivization from the Finance Commission than to rely on substantial grants from the budget.
- The Committee are, thus, of the view that effective devolution is the key to securing better outcomes and thus engendering the political will to find systemic answers to the systemic issues that are now well-identified after 20 years Constitutionally mandated of Panchayat Raj.

CHAPTER II

HISTORY OF PANCHAYAT RAJ IN KARNATAKA

“Governance from Delhi should be stopped and Panchayat Raj should be given its rightful place so democracy is strengthened at the village level.”

“Halliyinda Dillige!”

- Abdul Nazir Sab

Mysore Karnataka

The history of local governments in Karnataka began with the old Mysore State formed in 1956, and is not very different from the history of local governments in India. Mysore State included areas from Bombay Karnataka and Hyderabad Karnataka and Mangalore and Bellary from the Madras Presidency.

Inscriptions dating back to 1005 AD show that village bodies were very strong. The Grama, Agrahara, Nadu and Vishaya were autonomous. In Agrahara villages, the assembly of the Mahajans (head of the families of learned Brahmins) served as the local body. In others, the village assembly was known by a numerical suffix as in the case of aivathu okkalu (50 families) or movathu okkalu (30 families). The functions of the village assembly included maintaining temples, arranging festivals and running chaultries and aravattiges (centers to distribute water), collecting toll, conferring gifts for meritorious services, installing the statues of heroes who had died in the defence of the village, maintaining the families of such deceased heroes by grant of land and the settling of disputes.

The old Mysore State was ruled by many dynasties since the 6th century, including the Yadavas of Devagiri and the Hoysalas (1200 to 1336 AD). As there was not much interference with the functioning of local governments they continued to work efficiently on their own. This continued during the Vijayanagara Empire and by the end of the 16th Century, they were like republics with their own finances. Similarly the Odeyars (1610 to 1761 and 1810), Hyder Ali and Tipu Sultan (1761 to 1799) left them intact.

Bombay and Hyderabad Karnataka

The Bombay Presidency ruled directly by the British included Belagavi, Uttra Kannada, Dharwad and Bijapur; while Hyderabad Karnataka ruled by the Nizam included Bidar, Gulbarga, Raichur, Yadgir and Koppal.

The headquarters of government was essentially an urban area, located at strategic places that expanded in size due to increased political, judicial, economic, administrative and military activities. Agra, Delhi, Hyderabad, Lahore, Lucknow, Multan and Poona (Pune) were among the

important cities. Temple cities of Hinduism, such as Kashi (Varanasi), Mathura, Prayag (Allahabad) and Madura are examples of religious factors that contributed to their growth. Most towns were small market places. The Moghuls, essentially an urban people, preferred to develop urban administration in India.

They interfered very little with the ancient customs of village governments. For them the village was a unit for revenue. In that era, each village society made its own laws due to the isolation of each village from the neighboring hamlets. There were threats from the landlord, the robber or the invader. Fear strengthened the requirements for a village organisation such as the panchayat.

These bodies took charge of almost all the matters of the village including disputes and apportioned taxes. Panchayats gave dignity and order to village life, and their deliberations had the weight of religion and custom. In modern terms, these village governments were never 'democratic'. However, the old panchayat whether as a caste tribunal or as a judicial or administrative body, normally conducted its deliberations in the presence of all who cared to attend and the reactions of the listening crowd would be registered and would have an indirect influence. If one of the elders showed partiality or foolishness, this would be remembered by his colleagues.

These judicial powers of the panchayats were considerably curtailed under Mogul Rule. In short, the panchayats in ancient India were different in character than the notion advanced in the West: *"In ancient India the king was head of the state, but not of the society. He had a place in the social hierarchy, but it was not the highest place. As a symbol of the state, he appeared to the people like a remote abstraction with no direct touch with their daily lives, which was governed by the social organization."*

British Karnataka

In 1874, the British Government marked the beginning of modern local governments. With the establishment of the 'Local Fund Committee' in each district, these committees became subordinated to the bureaucracy and membership was exclusively restricted to officials. Lord Ripon's resolution in 1882, though not very radical, tried to bring some elements of democracy into the functioning of local governments. He paved the way for the Mysore Local Boards Act of 1902, creating a three tier local government system for the first time in the history of Karnataka. It provided for a Union (village) Panchayat with a nominated Chairman, a Taluk Board with a Sub Divisional Officer as President, and a District Board with a Deputy Commissioner as President.

But there were some problems with this Act, and in 1914 the Government of Mysore constituted two committees; the Local Self Government Committee under the chairmanship of Shri M. Kantharaj Urs, and the Local Finance Committee under the chairmanship of Dewan Shri Bahadur C. Srinivas Iyenger. These Committees examined the question of liberalising the constitution and power of local bodies to make them more effective. They recommended an elected majority in all district and taluk boards and independent powers for the taluk boards.

In the year 1915, a conference on local self governments was held under the president-ship of the ex-Dewan of Mysore, Shri K P Puttanna Chetty that stressed the need for local governments to be made more effective and prompted the enactment of the Mysore Local Boards and Village Panchayathi Regulation Act of 1918. This provided for the establishment of village panchayats with enhanced powers and the participation of elected members and was the first significant step in establishing self governing bodies in the state.

The Mysore District and Mysore Village Panchayat Act (1926)

After the enactment of the Mysore District and Mysore Village Panchayathi Act of 1926, Mysore and twenty other states passed acts to establish panchayats along democratic lines that provided for District Boards with adequate powers, functions and resources. For the first time the appointment of a secretary was mandatory and voting rights were given to those above the age of twenty. But women were not given the opportunity to contest Gram Panchayat elections and were totally kept out of all decision making.

Developments after 1947

In the wake of India's independence, Gandhi's idea of 'Grama Swaraj' had a strong impact on Karnataka.

After independence, the Princely State of Mysore had to adjust itself to the changed conditions and the requirements of the new political system. To advise them they appointed the Shri V Venkatappa Committee in 1949 that suggested a two tier system of Gram Panchayats at the village level and District Committees at the district level. The Venkatappa Committee submitted its report in 1950 and on that basis the Mysore Village Panchayats and District Boards Act of 1952, was enacted but did not achieve the expected results.

In the year 1953, with the intention of strengthening local governments, a Local Board Enquiry Committee, popularly known as the D. H. Chandrashekariah Committee was formed. This committee submitted its report in 1954 and suggested a three tier system with Taluk Boards at the intermediate levels, but these suggestions were not implemented.

The Mysore Village Panchayats and Local Boards Act 1959

In 1957, when the Balvantray Mehta Committee held that 'community development would only be deep and enduring when the community was involved in the planning, decision-making and implementation process', and in keeping with this, the Mysore Village Panchayats and Local Boards Act of 1959 was enacted when Shri B. D. Jatti was the Chief Minister of Mysore.

The Act introduced a system of directly elected bodies at the village and taluk levels and an indirectly constituted body at the district level. Seats were reserved for Scheduled Castes and Tribes according to the population in the area, while two seats were reserved for women. A District Development Council was set up, headed by the Deputy Commissioner of the District, consisting of MPs, MLAs, MLCs and TDB presidents, women members and district government officials, to advise, coordinate and supervise. Under this Act, about 8,411 Village Panchayats

and 96 Town Panchayats, 175 Taluk Development Boards and 19 District Developmental Councils were established.

The shortcoming of this act was that it did not make provision for financial devolution and autonomy or development planning by local bodies and as the district council was only an advisory and supervisory body; the taluk became the basic unit of administration.

Kondaji Basappa Committee

As the 1959 Act was lacking in many respects, another committee on Panchayat Raj was formed under the chairmanship of Shri Kondaji Basappa. This committee recommended the constitution the Zilla Parishad as an executive body with a non official chairman, devolution of more powers to the Taluk Development Boards (TDB) and a closer relationship between the village panchayats and the TDBs. It excluded MPs and MLAs from Panchayathi Raj Institutions and provided for Nyaya Panchayats. On these lines a 'The Mysore Panchayathi Raj Bill 1964' was introduced, but not passed due to political reasons.

The Karnataka Zilla Parishads, Taluk Panchayat Samithies, Mandal Panchayats and Nyaya Panchayats Act, 1983

The year 1983 marked a new era in the history of Panchayat Raj in Karnataka. It was one of the first states that pioneered Panchayat Raj in India by enacting the Karnataka Zilla Parishads, Taluk Panchayat Samithies, Mandal Panchayats and Nyaya Panchayats Act, 1985 but popularly known as the Act of 1983. Patterned on the recommendations of the Ashok Mehta Committee, it was conceived and sculpted by Shri Abdul Nazeer Sab, who was also instrumental in drafting it. Chief Minister Ramakrishna Hegde who was committed to the principle of 'power to the people', introduced the bill in the State Assembly in 1983 and the Act received the assent of the President of India on 10th July, 1985.

The Act was a landmark in the history of local governments in India. Though Panchayat Raj was given prominence in the Constitution, very few states took serious steps to operationalising this objective. The Karnataka Government for the first time showed willingness to make local governments a 'real centre of power'.

Abdul Nazeer Sab believed that *"such a system of devolution of powers would improve governance"* and that he had *"witnessed a real awakening in the people when they realised that they could share power at the lower level"*.

The objective was to provide for the decentralisation of powers and functions to local bodies for the purpose of promoting the development of democratic institutions and securing a greater measure of people's participation in the preparation, implementation, administration and audit of plans and finances.

The Act envisaged a three tier Panchayat Raj system. It made provisions for the constitution of a Zilla Parishad, based on direct election for each revenue district in the state, replacing the District Development Council under the earlier Act. It was given the power to plan and

implement development programmes and the president and vice-president were accorded the status of Minister of State and Deputy Ministers, respectively. The Taluk Panchayat Samithies at the intermediate level were coordinating bodies without executive powers with Mandal Panchayats for each revenue village or group of villages. This Act also provided for Nyaya Panchayats for each Mandal Panchayat, but unfortunately this provision was not implemented.

The Karnataka Panchayat Raj Act 1983 attracted nationwide attention because of its radical provisions relating to the devolution of powers to the district, taluk and the villages and the 25% reservation provided for women, including the Scheduled Castes and Tribes and cooption of 5 persons belonging to SC/ST, OBC and women at the Taluk Panchayat level. Another very significant introduction were the Gram Sabhas for each village that were expected to meet at least twice a year to approve plans and programmes and discuss their implementation and also to select beneficiaries for schemes.

This Act was hailed in political, intellectual, and academic circles, as 'revolutionary in concept and wide in its sweep' and generated much debate. However, this did not substantially alter the panchayat leadership. Inadequate devolution of financial and administrative powers, lack of commitment on the part of bureaucrats and political leaders were some of the reasons cited for its falling short of expectations on the ground.

According to Nazeer Sab, *"the Four Pillar State — Village, District, State and Centre — was the dream of Mahatma Gandhi. But when Karnataka set out to implement this, it was realised that within the limitations imposed by the Constitution, this ideology could not be implemented by a State government on its own and without a Constitutional amendment these intentions and efforts may not be as fruitful as one desired."*

Karnataka Panchayat Raj Act, 1993

When the 72nd Constitutional Amendment Bill (which emerged as the 73rd Amendment Act) was introduced by Shri Narashima Rao, in pursuance of Shri Rajiv Gandhi's 64th Amendment Bill, and passed by Parliament, Karnataka took the lead. Under the leadership of Shri Murarirao Yeshwantrao Ghorpade (M. Y. Ghorpade) a seven-time MLA from Sandur, who was the Honorable Minister for Finance and Rural Development and deeply committed to devolution, the Karnataka Panchayathi Raj Act of 1993 was enacted. Shri Veerappa Moily, the then Chief Minister, ensured that Karnataka was the first State to realise the 73rd Amendment. The bill was introduced in the legislature on 1st April, 1993, and received the approval of both houses. Following the Governor's assent on April 13th, it came into effect on 10th, May, 1993.

Shri M. Y. Ghorpade and Chief Minister Veerappa Moily wanted to bring in reservations for the backward classes and so made a provision in the 1993 Act for reservation of 1/3 of the membership and offices of the Panchayats based on an income criterion. Any person having an annual income of less than Rs: 10,000 could contest from any seat reserved for the backward classes irrespective of his or her community.

After the elections in 1994, Chief Minister, Shri Deva Gowda set up a subcommittee under the Chairmanship of Shri Siddaramiah who was a member of the Karnataka Cabinet to further strengthened reservations. Shri D. R. Patil, Shri P. G. R. Sindhia and Shri M. P. Prakash were some of the members. They suggested creating two categories; the B CM A with 26.6% and the B CM B with 6.4% that included Muslims, these two totalling 33%. This came into effect in 1995-96.

Taking into consideration the experience of implementing Panchayathi Raj for over a decade, the Act made some major shifts from the 1983 Act and the effect of this has been significant.

The Act established a three tier structure with the Zilla Panchayat at the district level, the Taluk Panchayat at the taluk level and the Gram Panchayat at village level. It provided for the direct election of all members of all tiers and the election of the Adhyaksha and Upadhyaksha from among them. It allowed the participation of political parties in the elections at the Taluk and Zilla (District) level, but not at the Gram Panchayat level and anticipated a gradual phasing out of political parties in all three tiers.

The preamble to this Act reads as follows:

'An Act to replace the present enactment relating to panchayats by a comprehensive enactment. Whereas it is expedient to replace the present enactment to establish a three tier Panchayathi Raj System in the State with elected bodies at the grama, (village), taluk and district levels, in keeping with the Constitution Amendment relating to panchayats for greater participation of people and more effective implementation of development programmes'.

Shri M. Y. Ghorpade said that *"political decentralisation was not sufficient without simultaneous administrative and financial decentralisation. PRI institutions must get direct funding from the government and have their own bureaucracy to regulate their use for local development works"*, he argued.

Mr. Ghorpade, was truly a champion of decentralisation. He showed a keen interest in the design, implementation and outcomes of a study of PRIs in Karnataka. He displayed an unflinching commitment to the cause of decentralisation and took great care to understand the process and its shortcomings towards reforming the system. Then, in an otherwise grim situation of fiscal decentralisation, his steadfast commitment was a silver lining.

He said; *"The cardinal principle is that what is appropriate at the given level of the three tier system should be done at that level and not at a higher level"*.

Unfortunately this Act has been through several amendments, not all of them positive. An amendment to share the term of Adhyakshya and Upadhyakshya was introduced by Shri M. P. Prakash that resulted in horse trading and intensified corruption.

Another amendment to the existing Law was to disqualify members who failed to build 'Shouchalaya' or a latrine, and slap them with Penal consequences. The Bill to repeal the

provision was defeated in the Council and a Joint Select Committee was set up under Shri H. K. Patil to go into the subject.

The Ramesh Kumar Committee 2014

In the course of the discussion before the committee Shri K. R. Ramesh Kumar a member of the Committee raised the issue of Panchayat Raj among other issues and so during the Belgaum Session the Joint Committee was dismantled and in its place the present Karnataka Panchayat Raj Amendment Act Committee was constituted.

More than a 100 amendments have been made to this Act and at one time 47 amendments were introduced! As a result a strong Act that could have worked well and served the spirit of the 73rd Amendment, has been mangled to the point that it is dysfunctional.

As one can see there are some weaknesses here. This Act also views panchayats as 'delivery agents' to an extent and though the 29 subjects listed in the 11th Schedule have been devolved, there are no proposed guidelines for the devolution of functionaries and finances to enable local governments to exercise real autonomy and self determination in planning and meeting the needs of their Gram Sabhas. [For a detailed analysis, please see Chapter VII]

In Conclusion

A system that originated around the 6th century AD with autonomous 'village panchayats' that managed their own affairs as independent units of government has undergone considerable change. The history of democratic decentralisation in Karnataka has been one of 'promise' and 'hope' rather than substantive positive outcomes on the ground. The functioning of Panchayat Raj Institutions in the state shows that they have not fully emerged as local self governments and a new class of power centres is emerging. The Gram Sabha is not fully empowered and they are largely bodies that identify beneficiaries for the more than 428 Union and State Government schemes that are designed in New Delhi and Bangalore and lack any flexibility in the implementation. Panchayat Raj Institutions have been reduced to mere delivery agents of schemes and programmes related to poverty elevation, improved living condition, infrastructure, health, education and sanitation. More importantly, several government orders over the years have withdrawn many of the powers enjoyed by panchayats by changing critical aspects of the Act.

However, it has given an opportunity to a large number of people at the grass root level to participate, to an extent, in local administration. A substantial number of scheduled castes and tribes, backward class and women representatives have now become a part of what was otherwise the domain of the vested interests and privileged sections of society.

The participation of women has significantly increased with the fifty percent mandatory reservation for women as members as well in the position of Adhyaksha and Upadhyaksha of panchayats at all three levels and Karnataka is the only state that has consistently recognised, respected and enabled women's participation in local government.

CHAPTER III

THE KARNATAKA PANCHAYAT RAJ AMENDMENT COMMITTEE - PROCESS

"I will give you a talisman.

Whenever you are in doubt, or when the self becomes too much with you, apply the following test. Recall the face of the poorest and the weakest man whom you may have seen, and ask yourself, if the step you contemplate is going to be of any use to him.

Will he gain anything by it?

Will it restore him to a control over his own life and destiny?

In other words, will it lead to Swaraj for the hungry and spiritually starving millions?

Then you will find your doubts and yourself melt away."

- Mohandas Karamchand Gandhi

One of the last notes left behind by Gandhiji in 1948

During the last Assembly Session in Belgaum (October 2013) Shri K. R. Ramesh Kumar made some pointed observations on the floor of the house regarding the functioning of Panchayat Raj Institutions in Karnataka. He called attention to the fact that the delivery of Central and State schemes was mediocre and often not reaching the people in the rural areas at all. He also said that people's participation in Gram Sabhas was poor. In many instances Gram Sabhas were not held and people had become disillusioned with local governments.

On introspection, the State Government recognised that there was a lot more to be desired and Shri H K Patil, the Honourable Minister for Rural Development and Panchayat Raj, with the endorsement of the Chief Minister, Shri Siddaramaiah, responded by setting up the Karnataka Panchayat Raj Amendment Committee with Shri K. R. Ramesh Kumar as Chairperson. It was constituted by the Government of Karnataka on 12.10.13 (G.O. No RDPR 221 ZPS 26.11.2013) for the purpose of recommending amendments to the Karnataka Panchayat Raj Act, 1993.

This Committee is an endorsement of the spirit of 'Democratic Decentralisation' that envisages all powers of governance, all planning and execution, shall devolve to, and vest in, the people and their Panchayats.

The task of this committee was to re-examine Panchayat Raj Institutions in the State through the lens of the Mahatma's 'Gram Swaraj' and to assess if the objectives of Shri Rajiv Gandhi were adequately realised both in the letter and in practice to transform the Panchayat Raj system into a unit of self government, bringing it closer to the people and ensuring the democratic participation of women, the SC/ST, the backward and the depressed in all aspects of administration of local governments.

The Committee began with a clause by clause reading of the 1993 Act in order to review it and suggest amendments. However, this resulted in the discussion of minute details and a micro perspective that blurred the larger picture.

It was suggested and accepted, that the Principles of Gram Swaraj should be first agreed upon to level the playing field and establish a common shared understanding of our task. The fundamental question was how Panchayat Raj is viewed. Is it a mere 'delivery system' for State and Centrally designed Schemes or an autonomous local government in its own right? If it was meant to be a delivery mechanism, the answer would be to strengthen the official machinery, remove all administrative bottlenecks and do away with elected representatives and their bodies in the three tiers – district, taluk and village.

Yet, the 73rd Amendment mandates Local Self-Governments and they cannot be wished away. The policy of paying lip service to local governments on the one hand and strengthening the bureaucracy and diminishing the powers of elected representatives and local bodies, on the other, is like a pen without ink, and has proved unproductive not to mention that it is ultra virus of the Constitution.

Half-way measures will not fulfil the intentions of the 73rd Amendment and would be politically side stepping our obligations and misleading. It was therefore decided to take the political 'high road' and go all out and 'give back' to local-self governments their mandated rights. This was also seen as a move that would bring political dividends both in the short and long term.

It was felt that a 'Statement of Intent and Objectives' should be prepared reflecting this stand to enable a wider consultation of all stakeholders from all sections of society to enable a constructive debate and elicit responsible public opinion that would shape the intended Enactment. This statement was prepared in both Kannada and English and widely circulated.

In order to ensure that a wide range of stake holders participated in the determining of the new enactment, Public Hearings for Gram, Taluk and Zilla representatives were held in the four revenue divisions of Karnataka [Gulbarga, Belgaum, Mysore and Bangalore]. Hearings for Panchayat Functionaries, Floor Leaders of both Houses of the Legislature, Members of the Legislative Council representing Local Bodies, the Karnataka Panchayat Parishad, experts in the field and Non Governmental Organisations. Some experts were also consulted individually and a literature review was undertaken.

The public hearings were very well attended with more than one thousand individuals participating. These hearings helped the Committee to feel the pulse of the people administering Panchayat Raj Intuitions and inform us of the critical issues they faced.

In the process it became apparent that minor amendments to the existing Act would not suffice and a new enactment would be required. We were advised that the terms of reference [TOR] of the Committee permitted this as the law views amendments and a new act on par, especially if the amendments are numerous resulting in a bulky and clumsy text that is difficult to

understand. Guidelines on drafting suggest that laws should be precise, economical, clear and compact. It was therefore decided that the Committee would draft a new enactment and this would be called the 'Gram Swaraj Panchayat Raj Act of 2014'.

To quote from page 181 of the second edition of the manual published by the Indian Law Institute, New Delhi in 2007 titled '*Legislative Drafting: Shaping the Law for the New Millenium*' [revised and updated by T. K. Vishwanath]:

"When numerous amendments are to be made in an act it would be advisable to consider, whether it would not be better to repeal the original act and re-enact with the proposed amendments. This will have the effect of reducing the bulk of the statute book; it also makes it easy for the person applying or administering the law."

It may be pointed out that Shri M. Y. Ghorpade when faced with a similar dilemma in 1993, decided on a new Act, instead of amending the 1983 Act, for the same reasons.

However, in light of the fact that the Department may feel that the Committee has overstepped its Terms of Reference and reject a new act, and with sight on the forthcoming Panchayat Elections next year, it was decided to first present the Committee's recommendations as an Amendment Bill and follow this up with the new enactment, the 'Gram Swaraj Act of 2014'.

Since the crux of making Gram Swaraj a reality was the devolution of the 29 subjects, a Sub Committee was set up for Activity Mapping. This Sub Committee decided to look into the possibility of other subjects that needed to be devolved through 'Entrustment' or 'Endowment' by the State to Local Bodies. Matters related to Social Justice such as violence against women and the scheduled castes and tribes, dispute resolution and the establishment of an environment that allows all people to exercise their rights in an atmosphere of freedom and liberty, Knowledge Management or the creation of an information base for every Panchayat to enable more scientific planning and monitoring; and Electoral Reforms were some of the additional issues considered for devolution.

This Activity Map, that was renamed the 'Responsibility Map' is the basis of our Committee's recommendations. It has shifted the perspective from PRIs as sub contractors of the State to PRIs as autonomous governments with the appropriate powers and obligations of governments at these levels of governance similar to the sharing of responsibilities of the Union and State Governments.

It has delineated functions that require to be carried out at the respective tiers, completely dismantling and incorporating whole institutions under the PRIs as appropriate. In this model no line departments or independent missions or programmes will function independently of the PRIs as all of them will mandatorily be incorporated into the administrative machinery of the PRIs including their functions, functionaries and funds making it possible for PRIs to deploy the staff so devolved as they see fit and use the funds at their discretion to fulfil the demands of the Gram Sabhas and implement the plans the Gram Sabhas design.

A group of practitioners volunteered to undertake this exercise for the Committee under the guidance of this Sub Committee.

Meanwhile some members of the Committee formed Subcommittees and undertook study tours to Maharashtra, Chhattisgarh, West Bengal, Bihar and Kerala and gave their suggestions based on the working of the Panchayat Raj system there. The drafting of the enactment began in tandem.

However, there were some critical issues that needed to be resolved and notes were prepared on each of these issues and notes were also prepared summarising all the submissions submitted during all the public hearings [please see annexure]. To consider this, the whole Committee gathered at Whitefield from June 24th to July 1st 2014. This was extremely useful exercise as several contentious issues were resolved unanimously and much progress was made with the gaining of clarity.

Subsequently a Core Group for Drafting was established under the Chairmanship of Shri C. Narayanswamy, to draft the individual chapters of the Bill to be placed before the full Committee on September 26th 2014. During the months of July, August and September the drafts were being prepared and periodically presented by the Core Group to the full Committee.

On 27th September 2014, an interim meeting was held with the Honourable Minister for Rural Development and Panchayat Raj, Shri H K Patil and the Committee decided to take a little more time to consider some of the issues raised by him.

One of them was to consider the preferential system of voting. This was considered in great depth by the Core Committee and it was decided that as there was still a large illiterate population and this would require balloting as the electronic system of voting could not be used for it, it would be a time consuming process and not viable as of now.

Another point was Schedule IV on taxation which as of now is 1 paisa for 1 square meter. The Committee had already decided on a procedure that would ensure that the schedule would be revised each year to be in keeping with market rates.

A Report of the Committee was prepared on 21st October and the full Committee considered the Report, the Draft Bill and the Amendment Bill very carefully and changes were made accordingly.

A full Committee Meeting was held on 29th October 2014 and some members of the Committee had an informal meeting with the Chief Minister on 29th evening at his residence at 3pm. He was very supportive and encouraging.

On the 30th October 2014 four members, namely Shri F. H. Jakkappanavar, Shri T. Janardhan Huligi, Shrimathi Shantamma M. Gujjal and Shri Sushil Kumar Bhimappa Belagali, submitted a

letter to the Chairman Shri Ramesh Kumar listing their concerns [appended to this Report] and stating that their concerns had not been considered and therefore reflected in the Amendment Bill. There were 8 points in all as follows:

1. Wanting Direct Elections of Presidents of Gram Panchayats.
2. Disagreeing with the Hamlet or Habitation as the primary unit of decision making for the Gram Panchayat and wanting the Ward instead.
3. Are in favour of small Gram Panchayats.
4. Disagreeing with the concept of the District Tribunal and wanting a Tribunal at the Taluk level as the District would be too inaccessible for individuals from villages and so wishing to retain the existing system of the Executive Officer as the appellate authority.
5. Stating that the Taluk Panchayat had been neglected.
6. That the Responsibility Map lacked clarity.
7. That the Schedules had not been drafted.
8. That the 'right to recall' had not been provided for at the Gram and Zilla levels.

The Chairman pointed out that as for points 5-8, the Committee had already taken care of these concerns more than adequately. The Taluk Panchayat had been given a pivotal role in planning and economic empowerment. As for the Responsibility Map it was made clear that the shift in perspective from department wise listing to task wise listing of functions was primary and essential and formed the basis of the Committees approach and therefore could not be reversed to the existing department wise listings. It was also suggested that Shri T. Janardhan sits with the activity map team and integrates aspects that would enrich the map but not detract for the basic principle.

The Chair also explained that the Schedules had already been prepared and the 'right to recall' had been provided for in an indirect manner for all three tiers – Gram Taluk and Zilla.

As for points 1-4, the Chairman explained that these subjects had been discussed by the whole Committee since June 2014 and unanimous decisions had been taken in this regard and therefore it was improper to raise these objections at this final stage of the proceedings.

This was put to a vote and all the members with the exception of the above mentioned four voted in favour of the decisions already taken by the Committee. The Chairman gave his ruling that the decisions of the Committee were final and the 'dissent' note would be appended to the Report.

Meanwhile the Responsibility Map and the Schedules were finalised on 31st October after considering the inputs from the members of the Committee.

The Report of the Panchayat Raj Amendment Committee, along with the Schedules, Responsibility Map and Amendment Bill were presented to the Honourable Minister for Rural Development and Panchayat Raj Shri H K Patil and the Honourable Chief Minister Shri Siddaramaiah.

PART II: POLICY ISSUES

CHAPTER IV

STATEMENT OF INTENT AND OBJECTIVES

“The Panchayat Raj system rests on the faith, like democracy itself, that it is a self-correcting mechanism with civil society pressure, increasing people’s awakening and public participation as the ultimate and effective democratic means of ensuring both transparency and accountability of local government institutions.”

- Shri T. N. Chaturvedi [2003]
Honourable Governor of Karnataka

This Statement was prepared by the Committee to enable a wider consultation of all stakeholders and the general public so that the emerging new law will reflect their concerns and will be accepted and well received as a portent of true devolution. The Committee, therefore decided to prepare a Document that would state the intentions of the committee to facilitate a constructive debate and elicit responsible public opinion that would shape the intended Enactment. This Document is the outcome of such resolve. In this regard, it lays down the broad contours of the proposed reforms as follows:

I. Vision Related:

The preamble to our Constitution drafted under the leadership of Dr. Ambedker makes it clear that “we the people” are the true sovereigns in our democracy. People do not get their rights of self-government from the government; rather government is granted power by the people through the process of indirect participation. However, democracy, as a basic feature, would necessarily mean the existence of systems that enable people’s participation at all levels and Panchayathi Raj not only enables this, but goes further to make possible people’s ‘direct’ participation in governance as a ‘Gram Sabha’.

This was recognised and provided for in Article 40 of the directive principles that reads as follows: *“The State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government”*.

Part IX of the Constitution and the assisting provisions were inspired by the principle of “Gram Swaraj” propounded by the Father of the Nation, Mahatma Gandhi. The spirit of the Constitution is to empower Panchayats with certain functional mandates, give them a significant degree of autonomy and impart to them an element of self-reliance and self-sufficiency through fiscal transfers, taxation powers and tax assignments. However, the intent of Part IX is also clearly that the Panchayats are expected to be constituted and to function as units of rural local self-government.

To make both concepts of 'democracy' and 'federal structure' effective and meaningful the flow of government actions, to the extent possible, must derive their source from people's participation. The country's federal structure has undergone a sea change in recent times consequentially leading to the emergence of the third tier of governance due to the 73rd Constitutional Amendment.

By its very nature amongst the various tiers of government, the tier at which the people would have a sense of direct participation or influence is the nearest tier of government, namely, the Panchayat or local government.

Panchayat Raj also has a bearing on two very critical concerns. The first is to provide citizens the environment of a participatory democracy to exercise their right to direct participation in the governance of their panchayats and bring alive the concept of non-partisan community participation where each citizen has not only the right but the possibility of exercising her/his right to determine the path of development and to build a just and equitable society through their own endeavour. This can be done only through very powerful decentralisation and devolution.

The second, to infuse and inculcate in our flagging practice of Democracy that is now centralised and top down, a sense of transparency and accountability to the primary stake holders and custodians of democracy.

The need for an amendment of the Panchayat Raj Act 1993 arose due to drastic changes in rural Karnataka. When the above Act was passed in 1993 the GDP contribution of agriculture was large, demand for and exploitation of natural resources were limited, holdings were large, numbers of people engaged in non-agricultural activities was small, less people used to migrate from rural areas, rural-urban linkages were less, and caste, gender and rural-urban boundaries were clear.

Now in 2014 we see a sea change in rural life. The GDP contribution of agriculture has declined to 13%. Small holdings are the defining feature of agriculture. Crop patterns have shifted, the exploitation of natural resources is more severe, and urban areas are better connected. More people migrate from rural to urban areas and the boundaries of caste, gender, rural and urban are blurring. The penetration of information technology and the wide scale connectivity available through cell phones and internet together with exposure to television and other electronic media has changed the aspirations of rural communities.

All these changes are reflected in the changed social, economic and political life of rural Karnataka. These changes call for new institutional arrangements which would enable rural people to deal with the fast-changing world and to create a sustainable economy, polity and society.

Further, Karnataka has taken a very progressive step to reserve 50% of all seats in Panchayats for women. As a result more than 50% of panchayat members are women as many women have

also been elected in the general unreserved category. The intention of this committee is that the presence of women working side by side with men in equal numbers should have a humanising and sensitising effect on local governments and not the other way around. Women should not be forced to ape the existing macho behaviour of their male counterparts and play by male rules in order to serve their constituency.

This Committee takes special note of this fact and endeavours to make Panchayats 'women friendly' not only with regard to providing the infrastructure [such as toilets and crèches] but also with regard to building the capacity of women through specially designed training, encouraging the drafting of a 'code of conduct' for all members that creates an enabling environment for women to function and discharge their duties as elected representatives of the people.

This committee would like to reaffirm the mandate of the Freedom struggle conveyed by Gandhiji to the Constituent Assembly:

I have not pictured a poverty-stricken India containing ignorant millions.

*Establish **village swaraj** – make each village **self-governing and self-contained** as regards the essential needs of its inhabitants.*

Clearly the vision was to empower all citizens with the means to create a society of their aspirations; a dream where villages are self-sufficient and self-contained and governed by the plans and programmes determined by these citizens.

Further, while introducing the Amendment, Prime Minister Rajiv Gandhi told Parliament:

*I toured hundreds of villages. I spoke to countless people. There, in their hearths and homes, I experienced the cruelty of an unresponsive administration, the oppression of an administration without a heart, **the callous lack of compassion that most of our people find at the hands of much of our administration.***

*We learnt that a **grassroots administration without political authority was like a meal without salt.** We learnt that however well-intentioned our district bureaucracy might be, **without effective elected authority the gap between the people and the bureaucracy could not be closed.** We learnt that the vacuum created by the absence of **local level political authority** had spawned the power brokers who occupy the gap between the people and their representatives in distant Vidhan Sabhas and the even more remote Parliament. We learnt that **corruption could only be ended by giving power to the panchayats and making panchayats responsible to the people.** We learnt that inefficiency could only be ended by **entrusting the people at the grass root level with the responsibility for their own development.** We learnt that callousness could only be ended by **empowering the people to send their own representatives to institutions of local self-government.***

There are two sides to this coin as eloquently stated in the above two quotes. Implicit in the principle of a **grassroots administration with [out] political authority** as intended by Shri Rajiv Gandhi and villages that are **self-governing and self-contained** as envisioned by Gandhiji require both a group of enlightened citizens with functioning structures [meetings of the Ward and Gram Sabhas] for their participation and an empowered grassroots local government [Panchayats] enabled to meet the needs of its people and carry out the plans they design. One without the other would only render the principle ineffective in practice and reduce the Gram Sabhas to merely formulating list of beneficiaries for the State and Central Government and its departments to consider. Panchayats cannot be seen as mere agents of delivery of Central, State or other schemes. This (as we have clearly seen) leads to frustration and a disillusionment in the very concept of devolution and unfairly discredits the elected representatives of local governments.

II. **Endowment and Devolution:**

Article 243 G shows that while states do have a degree of leeway in empowering the panchayats, it is imperative that the **“endowment of powers and authority”** on the Panchayats ought to be **“as may be necessary to enable them to function as institutions of self-government.”** In other words, such endowment has to be real.

If the entire purport of the 73rd amendment is looked into and construed in its proper spirit and if the same is read along with the Preamble of the Constitution of India by which ‘we the people’ have solemnly resolved to constitute India into a ‘democratic republic’, it is evident that the very purpose of the Constitutional requirement of having Panchayats is to provide for local self-government. In this regard this committee intends to explore the full extent of the scope of the concepts of **endowment** and **devolution**.

The scope of the operative term **‘devolution’** covers the transfer of power over funds, power over functions and power over functionaries. Without the three going together with respect to any function, the process of devolution is not complete. Only if such endowment or devolution is complete, can the panchayat be expected to discharge its responsibility as a local self government.

On the other hand the term **‘endow’** as stated in **Article 243 G**, *the State legislation may endow the Panchayats by law with such powers as may be required to function as institutions of self government*. This goes beyond the term ‘devolution’ and is not confined to the devolution of finance, funds and functionaries [the 3Fs] but envisages that local self governments be endowed with powers for the **planning and implementation of schemes for economic development and social justice** as may be entrusted to Panchayats beyond those in relation to the matters listed in the Eleventh Schedule.

Further economic development is validated by the underlying premise of social justice. Economic development devoid of social justice or the mere raising of the GNP without the

equable distribution of wealth is meaningless. 'India is shining' but 70% of her people are still below the poverty line is development skewed in favour of the already rich urban elite.

Article 243 G states:

“such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level;

- a. the **preparation of plans** for economic development and social justice;*
- b. the implementation of schemes for economic development and social justice as may be entrusted to them **including those** in relation to the matters listed in the Eleventh Schedule.”*

From this it is clear that the State Government may make provisions for the *devolution of powers and responsibilities upon Panchayats* and *entrust the implementation of schemes for economic development and social justice including those listed in the Eleventh Schedule*. It therefore does not preclude the prospect of **endowing** Panchayats with matters other than those listed in the Eleventh Schedule that go beyond the list of 29 subjects.

It is in pursuance of this obligation that States have passed their respective Panchayat Raj Acts. In such circumstances, once the law has been enacted by the State transferring the subjects to PRIs, the Constitution prohibits the State from developing schemes dealing with the very same aspects and operating them directly. The Constitution also prohibits the State from transferring such subjects away from the Panchayat Raj Institutions [PRIs] through executive orders.

While Article 243G gives the power to States to determine the scope and ambit of Panchayat Raj, this cannot be misinterpreted to include reversal of Panchayathi Raj. **The movement of Panchayathi Raj should be forward. It cannot be a see-saw approach.**

The Constitution envisages harmonisation not only of laws but also of institutional mechanisms with the Panchayat Raj System. The principle of concomitance cannot be limited to just laws but it extends to institutional arrangements as well. Viewed in this sense such institutions have to be harmonised with the PRI set up or else they become ultra vires of the Constitution.

Over the past years there has been a deliberate erosion of Panchayat Raj. A popular notion is that the law is weak in this regard, the natural consequence of Article 243G providing flexibility to States to determine the ambit of devolution to Panchayats. However, a close examination of facts show that this is incorrect – in fact, Karnataka has passed strong laws, but these are weakly implemented. The means adopted to institutionally weaken Panchayat Raj are not through the law, but through executive actions.

Therefore, half way solutions are not possible. Parallel bodies, or para-statal bodies, pose a serious threat to the growth and maturation of PRIs as institutions of Local Self Government. Parallel bodies, those set up as directed by the State or Central Governments to plan and/or execute development projects in areas, which are in the functional domain of Panchayats, using funds provided by the State or Central Governments or donor funds, are called parallel because

they have a separate system of decision making on resource allocation and execution of projects which is independent and removed from the Panchayat Raj set up.

Some NGOs also fall into this category when they are either co-opted by Governments to implement and run central and state schemes or act as sub-contractors for the delivery of services. Panchayats shall not be supplicant to NGOs or any para-statal bodies and all NGOs implementing programmes in Panchayat areas shall be accountable to the panchayat.

Only tasks, other than those that should be performed by local government, ought to vest in State Governments, and from there on to the Union Government. The principle of subsidiarity holds that a larger and greater body should not exercise functions which can be carried out efficiently by one smaller and lesser, but rather the former should support the latter and help to coordinate its activity with the activities of the whole community.

This principle defines **subsidiarity** as the idea that a central authority should have a subsidiary function, performing only those tasks which cannot be performed effectively at a more immediate or local level.

In other words, it means the State shall take action only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the communities -Society- and can therefore, by reason of the scale or effect of the proposed action, be better achieved at the State level. It means that policies should always be made at the lowest possible level, and that the higher level should only legislate when there is unanimous agreement that uniform regulation is necessary.

III. Financial Devolution:

The State shall endow the Panchayats with all funds intended for them, be it Central or State Grants, or funds designated to be utilised by Missions or para-statal bodies within the jurisdiction of a Panchayat and these funds shall be directly transferred to the account of the appropriate Panchayat. With regard to untied funds, such funds shall be transferred as untied funds and not designated under any scheme.

Ensure that Gram Panchayats receive a substantial amount of planned untied funds based on their need. This is especially essential for small underdeveloped panchayats in backward areas. Panchayats should also be assisted to think of creative ways to raise their own funds locally and they should be guided to do so.

1. 35 to 40 percent of the funds need to come to the Panchayat as per the State Finance Commission [SCF] award. In order to ensure that this happens, there must be a detailed mapping of the fiscal endowments necessary for the Panchayats, based upon the functions devolved upon them.
2. The recommendations of the State Finance Commission shall be mandatorily accepted.

3. Not less than 50% of the plan allocation to Panchayats shall be untied and left to the discretion of the PRI to be used to meet the needs of the given Panchayat based on the plans designed by the Gram Sabha.
4. The funds allocated by the State Government to the Panchayats shall be deposited directly into the account of the Panchayat.
5. All the grants received and their utilisation by the Panchayat from different sources and their income and expenditure shall be made public for ensuring transparency.
6. Guidelines shall be framed for the unitisation of earmarked funds as earmarked for dalits and similarly funds shall be earmarked for issues particular to other groups such as children, women, migrants and tribal communities.

IV. Administrative Devolution of Functionaries:

Financial devolution will not suffice or fulfil the true spirit of devolution if the corresponding functions and functionaries are not devolved as well and harmonised with the panchayats.

As of now in the case of some schemes, the funds are transferred to the respective panchayats, however, they are used as a mere post box or forwarding agency. They have no control over the planning, implementation or administration of these schemes.

It is therefore the intent of this committee to ensure that the devolution of all the 3Fs [functions, functionaries and funds], is complete in all respects and panchayats have the funds, the staff and the development functions that these schemes administered by various departments of the State and Central Government and Missions.

The existing Central and State Government staff shall be devolved and harmonised with the appropriate PRI and report and be accountable to that PRI.

V. Responsibility (Activity) Mapping:

The State shall meaningfully devolve all the 29 matters listed in the Eleventh Schedule to the Constitution, to the three levels of Panchayats, through a fresh exercise of responsibility (activity) mapping, which is based on the principle of Subsidiarity, i.e., that what can be done at the lowest possible level should be done there, and not at a 'higher' level.

In order for Grama Sabhas to be powerful, Grama Panchayats also need to be strengthened so that they are in a position to implement the plans approved by the Gram Sabhas. This would require Activity Mapping clearly delineating the roles of the Gram Sabha, Gram Panchayats, Taluk and Zilla Panchayats visa-a-vis function, finance and functionaries and should be immediately done. In doing so this activity mapping exercise should also clearly delineate **the powers, rights, duties and obligations of the President and Standing Committees of Gram Panchayats and other tiers of the PRIs and the roles and responsibilities of the paid staff [such as PDOs and Secretaries]of the panchayats.**

Once the exclusive functional domain of the Panchayats are clarified through a process of activity mapping, all connected laws and institutional mechanisms should be harmonised with these arrangements as envisaged in the Constitution. Parallel bodies pose a serious threat to PRIs as institutions of Local Self-Government. Such institutions have to be harmonised with the PRI set up and they shall be made accountable to the Gram Sabha.

Similarly, all other organisational and managerial arrangements that vest powers devolved to Panchayats to other authorities need to be reviewed and harmonised with the activity mapping for the Panchayats.

VI. Planning:

The most effective way to strengthen Panchayats to meet the needs of its citizens is to first and foremost ensure that the delivery of services is based on the specific needs of the said Gram Panchayats and not on random allocations by the State Government, Zilla or Taluk Panchayat or even political considerations.

As of now Panchayat plans are formulated based on the budget indicated by the Government and based on the needs of the given panchayat and its citizens. As a result these plans do not reflect all the needs of the citizens and does not allow for long term planning for the progressive development of the panchayat based on the vision of their ideal panchayat. Schemes are also not allocated based on the needs of panchayats, but on the discretion of higher authorities. This needs to change and in order to ensure a true 'bottom-up' process:

1. The Gram Sabha should be the deciding body based on a mapping of the panchayat conducted by the community including children and senior citizens.
2. Each Gram Panchayat shall develop a Forward Looking Plan based on the felt needs of the people that has evolved through a bottom up process including Ward and Special Ward Sabhas soon after they are elected and not later than three months of taking office.
3. The annual plans shall be developed on the basis of this document and the State shall provide the necessary resources for the implementation of the plan. The State shall also provide technical support and guidance for the planning process.
4. In this regard the holding of Special Gram Sabhas for the disenfranchised [such as children, the care givers of the mentally challenged, migrants] SC/ST, women and senior citizens that are preceded by similar special Ward Sabhas would be critical. This would ensure bottom-up planning involving all sections of the community.
5. The plans developed by the Ward Sabhas shall not be changed, but only consolidated to form the master plan for the Gram Panchayat. The consolidation should be done from below and then worked upwards. Elected representatives of Gram Panchayats will minute all the discussions held during the Panchayat meetings and ensure that the suggestions or

objections raised by women, persons belonging to the SC/ST and members of other vulnerable groups, shall be recorded. This is to ensure that their issues are not omitted by default.

6. The District Planning Committees shall take all plans of the Gram Panchayat and they shall not be modified without valid reasons in writing and in consultation with the representatives of that Panchayat. These plans shall be then consolidated with the Draft Development Plan for the District.

However these consolidated plans or any development related to schemes, infrastructure and services that require to be implemented within the jurisdiction of the Panchayats by the Centre or State Government departments or institutions have to present their plans in the Gram Sabha so that the nature of the design and implementation of these schemes including beneficiaries shall be decided by the Gram Sabha and shall require the approval of the concerned Gram Sabhas before implementation.

7. Land use planning shall be entrusted to the Village Panchayats with the required technical assistance in order to prevent erratic development resulting out of the conflicting jurisdiction of the present Town Planning laws.
8. Panchayats should be empowered to deal with road encroachments and building violations sternly.
9. The District Planning Committees need to be revitalised and their role clearly demarcated and the capacities built and direction set.
10. Panchayats should have the power of course correction to the Action Plan. Panchayats should have the option to add/delete or change the Yearly Action Plan according to the seasonal needs and emergency requirements of the Panchayats. Flexibility should be built in.
11. The Gram Panchayats shall have the freedom to hire engineers and other technical persons and shall not be restricted to utilising the services of only the existing engineering staff.
12. There shall be a recourse team empanelled from among local experts in a variety of fields [such as watershed management, small hydro projects, civil engineers, architects, town planners, artists and theatre persons etc;] from which the Gram Panchayats can draw upon as needed.

VII. Rural Environment and Ecology:

This Committee comprehends the fragile nature of the ecology and biodiversity of the State and the need to protect these in order to avert major ecological disasters such as water shortage, pollution of ground water, depletion of forests and their wild life, flora and fauna and the

negative impact of unplanned and unlawful mining of natural resources. In this respect this Committee suggests the following:

1. PRIs should be encouraged to develop a Policy for Natural Resource Management. A framework or guidelines for this policy shall be designed by the State Government in consultation with PRIs that will be applicable to all PRIs in Karnataka.
2. Gram Panchayats will be provided the technical and financial assistance to manage their solid and liquid waste in a bio-friendly manner and convert it into natural fertiliser where possible.
3. As for non biodegradable waste such as plastic and poly based waste which is causing enormous health risks due to the absence of proper disposal and lack of awareness of their dangerous side effects, the State Government shall issue guidelines for the use of products manufactured from such material and the proper scientific disposal of the same. PRIs will be provided the necessary knowhow and resources to contain the use of and manage such waste.

VIII. Further Institutional Activity:

PRIs shall have powers to administer the funds, functionaries and functions for critical areas even beyond the 29 matters listed in the Eleventh Schedule to the Constitution that emerge as a result of the process of activity mapping that will be undertaken. These will include:

1. This Committee acknowledges that employment generation is one of the sustainable means to tackle rural poverty and unskilled migration to urban areas. In this regard, Panchayats shall be encouraged to set up **Public Sector Enterprises** that support agriculture, weaving, the production of cane and bamboo products and other local sectors. The State Government shall provide the necessary knowhow and seed resources to enable their establishment. Panchayats will also be supported to provide training for employment generation for the manufacture of value added products, including those that can use waste material available in the area as raw material. This should enable local people to be gainfully employed and the Panchayats to increase their revenue.
2. Similarly the State Government shall announce a policy that will encourage Gram Panchayats to further develop **Village Industries** that are viable and sustainable. Appropriate and sustainable technology to improve and existing production processes shall be developed by existing Central/State Corporations such as the Khadi and Village Industries Commission with the support of the State Government. This will also revitalise these institutions and make them more relevant.
3. Gram Panchayats will also be supported to grow/produce/acquire the required raw material required for these industries. Gram Panchayats will be encouraged to form alliances among themselves to share the tasks based on their strengths. For example if one Panchayat grows

cotton and another has a tradition of weaving they can collaborate to support each other eliminating a string of middle men that increase the cost of the product.

4. For any enterprise to be successful, **marketing** of the products is of critical importance. Marketing networks such as HOPCOMS shall be reviewed and revitalised and similar networks shall be set up for non agricultural products. There can be one **Development Centre** for a cluster of Panchayats.
5. The regional diversity of **art and craft** in Karnataka is a heritage that needs to be preserved and nurtured. Gram Panchayats shall be supported with the required resources to map this diversity and set up institutions to propagate them.
6. **Cultural** events of all communities and religions are the lifeblood of rural communities. Gram Panchayats shall be provided the required infrastructure and resources to promote these events. This could also be a good source for income through Eco Tourism. Related infrastructure such as home-stays, tour guides and the recording and publishing of the history of these cultural practices should be developed by the people of the said Gram Panchayat in order to improve the rural economy and provide entertainment other than the electronic media.
7. The dispensing of **Social Justice** at the village level will reduce the hardship and expenditure of those seeking redressal of their grievances through arbitration. The Committee discussed this issue at length and wishes to explore the possibility of decentralising a system of justice and security to the Gram Panchayat level. So that the Gram Panchayat becomes the first stage for the redressal of all grievances.

In this regard it will examine the Naya Panchayats constituted with the support of the Mahila Samakhya in Karnataka and similar structures in existence in the States of Bihar and Maharashtra where dispute resolution has been given legal sanctity at the village level.

These structures shall be constituted ensuring that the interests of the SC/ST, all vulnerable, disenfranchised groups and minority communities are protected and adequately represented in these bodies.

IX. Autonomy of Panchayats:

1. Gram Sabhas and Gram Panchayats have the **Right to Determine** the Development of their respective panchayats and this must be respected and protected at all cost. All beneficiaries and development plans for all programmes shall be determined by the Gram Sabha.
2. Any Central/State Government department or institution that the Gram Panchayat has permitted to develop housing or other infrastructure within the jurisdiction of a Gram Panchayat shall be required to pay the necessary development cess to the said Gram Panchayat.

3. Such infrastructure developed by the Central/State Government must be complete in all respects before they are handed over to the Gram Panchayat. For example, housing projects shall also necessitate the provision of water, drainage, electrification and roads etc.
4. If such projects are not completed within the specified time, the developer will be required to pay a penalty to the Panchayat. Further, if any such project is not completed on time, the financial and other resources required to complete this project in all respects shall be transferred to the Panchayat so that the Panchayat may complete the project.
5. The Revenue Department shall obtain a prior no-objection certificate from the Gram Panchayat in the same manner as any other organisation or institution is required to obtain a no objection if it wishes to provide services or infrastructure under a central government scheme within the jurisdiction of the Gram Panchayat.
6. Any national public enterprise wishing to establish a factory, commercial establishment or industry of any kind within the jurisdiction of a Gram Panchayat is required to obtain a no objection if it wishes to provide services or infrastructure within the jurisdiction of the Gram Sabha. The decision to grant the permission shall rest with the Gram Panchayat.
7. The Central/State Government shall publish such orders and circulars related to PRI activities issued by its various departments within 24 hours on their websites.

X. Panchayat Jurisdiction:

The jurisdiction of a Gram Panchayat shall not be limited to their administrative functions within that revenue area, but extend to all interventions that directly or indirectly affect the lives of the citizens of that panchayat.

1. The Gram Panchayat shall be the front office for all other offices of government.
2. Solid waste management and waste disposal of urban areas shall not take place in a Gram Panchayat without the consent of the Gram Panchayat and after a process of consultation and mitigation of the environmental damage so caused. The state Government is requested to put necessary procedures and systems in place to ensure this. The elected bodies of the concerned urban centres shall be held responsible and be required to pay for all forms of pollution/ damage caused to the environment and the people of the concerned Gram Panchayat.
3. All natural/common resources shall be jointly owned by the concerned Gram Panchayat and the Centre/State.
4. Minor minerals shall be the exclusive purview of the Gram Panchayat and decisions regarding the exploitation of this resource shall be made by the Gram Sabha.

5. Common lands, especially *Gomaal* land, shall be protected and shall be the exclusive purview of the Gram Panchayat and Gram Sabha.
6. The ultimate decision of the right to the access and use of forest resources shall be discussed and decided at Special Gram Sabhas that are held specifically for Tribal, Scheduled Caste and Scheduled Tribe communities.
7. Panchayats should be provided the a) Technological knowhow; b) Capital Investment and c) training to design, implement and manage water and other basic needs and services in the best interests of the people of that panchayat and shall not be privatised.
8. Departments such as Home, Revenue etc., shall not grant permission for holding public functions without consulting the Gram Panchayat. Only functions that uphold social justice shall be allowed.
9. Any private or public enterprise wishing to establish a factory, commercial establishment or industry of any kind within the jurisdiction of a Gram Panchayat is required to obtain a no objection. The decision to grant the permission shall rest with the Gram Panchayat.
10. No major land use decision with respect to any Gram Panchayat, for example, merger with an urban area, can be taken without the consent of the Gram Panchayat concerned.
11. Any Centre or State Government department or institution that the Gram Panchayat has permitted to develop housing or other infrastructure within the jurisdiction of a Gram Panchayat shall be required to pay the necessary development cess to the said Gram Panchayat. Such infrastructure developed by State or Central Government must be complete in all respects before they are handed over to the Gram Panchayat. For example, housing projects shall also necessitate the provision of water, drainage, electrification and roads etc.

XI. Empowerment of Panchayats:

With the devolution of the 3Fs and the maximum extent of 'endowment' it will be necessary for the Panchayats to govern and manage all development schemes and the machinery for economic and social justice. This will include the planning, implementation and management of the corresponding funds and functionaries.

This will require that both the Elected Representatives, especially the office bearers, 50% of whom will be women and the existing staff of the Panchayats are empowered through designated powers and the building of their capacities and skills to operate in this new enhanced environment.

With more women joining the ranks of Panchayat Raj, the infrastructure and environment in Gram Panchayat offices and the manner in which business is conducted will have to change and become more women and child friendly to enable the large percentage of female elected members to participate in an active and informed manner.

The training provided to elected representatives is clearly inadequate and a review of these programmes and the utilisation of the funds made available are urgently required. The Training and Capacity Building of Elected Representatives of Gram Panchayats, with a special focus on women, and all other tiers of the Panchayat Raj system needs to be revamped to ensure that the right 'mind set' or attitude towards local self government is instilled as a first step towards the efficient management of a Gram Panchayat.

Women in Panchayat Raj:

1. Many women have to cross three thresholds to enter public life and the many constraints and challenges that are inherent in these. First, the threshold of home and family and the economic and socio-cultural barriers and demands that exist. The second is access to knowledge and information as the education of girls was not a priority for decades and though things are changing, the girl is still deprived. However, literacy is not enough to enable a woman to transact governance and access all the skills and knowledge required nor understand how to access these. Thirdly, the new age of information technology has penetrated villages and Gram Panchayats have become more technologically savvy thanks to the State Government's attempt to computerise all data and communications of the PRIs to introduce the concept of e-governance.

This committee appreciates that a women elected to represent her people has these three very enormous challenges to surmount and will endeavour to mitigate these and provide support to women to enable them to overcome these hurdles.

2. The training infrastructure for PRIs should recognise that there are more than 50% women and that all training has to be designed in a gender sensitive manner taking into consideration their needs and requirements.
3. It has also been found that if the family of the woman, especially the spouse is not sensitised to the demands of the role the woman has to play as an elected member, the demand on the roles she has to play at home as mother, daughter and wife will not be shared by other family members nor her energy compensated for.
4. Members of Gram Panchayats in Karnataka will be encouraged to develop a Code of Conduct that respects women, underprivileged members [SC/ST] and the specially-abled and brings honour and respect to PRIs as a whole.
5. All Gram Panchayat offices shall have a toilet designated for women that is also handicapped friendly.
6. Crèche facilities should be made easily accessible for members who are mothers with young children and designated areas for breast feeding infants should be provided.
7. Transport arrangements for women should include a companion to facilitate women to

visit all areas of the Gram Panchayat including remote and far flung wards without fear.

People's Representatives

Looking ahead it is important to pay special attention to the fact that the elected people's representatives should not feel intimidated by this enhanced role nor by the staff that serve them. In this context the following shall be contemplated:

1. There should be a 5 year term for office bearers of the Panchayats.
2. Rotation of reservation of membership of a Panchayat shall be for two consecutive terms.
3. The honorarium and sitting fees of the elected representatives and members of PRIs shall be appropriately increased.
4. Illiterate or semi literate office bearers of Gram Panchayat shall have the benefit of an adequately literate person of their choice to assist them to discharge their duties and obligations in an informed and knowledgeable manner. In the case of female representatives, the person shall be of the same gender. These 'assistants' shall also be trained along with the elected representative.
5. The Government shall provide basic training to all elected members of the Panchayat regarding the Panchayat system within the 1st month of elections. Existing training programmes shall be made more broad-based and inclusive by creating a more conducive environment for the inter-relation and sharing between these groups in common sessions. Such programmes shall be conducted locally facilitating the participation especially of women who have household responsibilities and the care of family and children. Field visits to model Panchayats that can be emulated shall be made a mandatory part of capacity building of the Panchayat members.
6. The State Panchayat Council shall be re-constituted and rejuvenated.
7. All district planning committees shall be constituted and their proper functioning shall be ensured as mandated by the Constitution. The plans developed by the District Planning Committees shall be provided for in the State budget.
8. The scope of the Taluk Panchayat should be revisited (within the framework of the constitutional architecture).
9. An effective institution of Ombudsperson on the lines of the Lok Ayuktha to be introduced at the State and District levels.

Panchayat Functionaries:

It is imperative we ensure that the PDOs and secretaries **assist** the elected peoples' representatives in their functions and do **not** intimidate or usurp their functions or conceal information or hinder them in the carrying out of their duties.

1. The post of the PDO should be up-graded and shall be central to the administrative set up and subordinate to the Gram Panchayat. All staff [including staff deputed from other departments] at the Gram Panchayat level should be administratively subordinate to the PDO. The power of appointment, transfer and discipline in respect of these persons should rest with the Gram Panchayat.
2. Persons who have the knowledge, skills and aptitude for development, planning and implementation, shall be recruited through a board, called the Karnataka Panchayat Raj Administrative Service Board, to be set up by the State Government. State Government shall draft appropriate service rules for Panchayat staff so that the Panchayats may monitor their work and take necessary disciplinary action as and when required.
3. The Village Accountant shall come under the Gram Panchayat.
4. In the matter of recruitment, while there is unanimity about recruitment to Group C (permanent) posts through the Panchayat Recruitment Board. Bill Collectors, village staff, staff working for Anganwadis and other Village Development Schemes – State and Central – may be taken in as the core strength. For reasons of affordability Group B posts shall be filled by deputation from Government Departments for fixed terms, and Group A Posts, being inflexible, shall be deputed from the State and National level Services such as the IAS. The State Government should frame appropriate Cadre and Recruitment Rules for Panchayat Services, providing option to the existing Government Servants in the RDPR and Urban Local Bodies to opt for serving permanently in the Panchayat Services.
5. The performance of the PDO with regard to the discharging of his/her official duties shall be evaluated by the members of the Gram Panchayat and the results of this review shall be recorded in the Service Record with the signature of the Panchayat President.
6. The performance of all other staff shall be evaluated by the PDO who shall maintain their service records.
7. It shall also be within the purview of the President of the Grama Panchayat to sanction leave of absence to the PDO and the PDO shall sanction leave of absence for the rest of the staff.
8. The staff deputed/devolved from other Central and State departments shall be evaluated by an Appraisal Committee constituted by the appropriate PRI.

9. The salaries of all staff [including staff deputed from other departments] at the Gram Panchayat level shall be disbursed through and by the Gram Panchayat.

XIII. Direct Participation - Empowering Gram Sabhas:

The acts and rules governing Panchayats should be modified to strengthen mechanisms for people's participation. The current arrangements delineating the functions of the Gram Sabha should be reviewed to give it more power to make decisions and become the ultimate decision making body in the village.

Article 243-N speaks of the continuance of existing laws with respect to Panchayats. It states that notwithstanding anything in the constitution, *any provision of any law* relating to Panchayats in force in a State immediately before the commencement of the Seventy-third Amendment Act, 1992, which is inconsistent with the provisions of Part IX, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority *or until the expiration of one year from such commencement, whichever is earlier*. In Article 243N is implicit the premise that after one year of the coming into force of the 73rd Amendment, *no provision of any law that relates to Panchayats can exist*, which is in *violation or contravention of the Panchayathi Raj Act of the State concerned*. In other words, the Panchayat law enacted under the provisions of Part IX of the Constitution would gain precedence over *any provision of any law*. It is thus clear that legislations empowering Panchayats with powers and responsibility have a special and predominant status.

The 73rd amendment needs to be implemented more effectively. The amendment creates a framework already, but each institution in the framework does not function as expected.

1. While designing mechanisms for peoples' participation, special arrangements should be made to ensure inclusive participation of women, children, youth, tribal communities, minorities, senior citizen, people with special needs, scheduled castes and migrants in Panchayats by conducting Special Gram Sabhas for them on a regular basis to choose deserving beneficiaries in each group and also to enable them to be part of the planning process to articulate their needs and desires.
2. Panchayats shall work towards a vision of a society that is tolerant, peaceful, and respectful of all its citizens and upholds the spirit and values enshrined in our Constitution. In this direction, elected representatives of Panchayats shall ensure a favourable environment for the informed and active participation of the all vulnerable groups, namely, SCs, STs, minorities and women in all meetings especially in Ward and Gram Sabhas.
3. Appropriate rules shall be mandatorily framed for the process leading up to and the conducting of Gram Sabhas based on the experience of the past years and the lessons learnt.

XIV. Knowledge Management:

1. The State shall provide the technical expertise and support required to the Panchayat

members to collect household data related to human development index and other census related data and use the information for the development of their Panchayats.

2. The State shall enable Panchayats to manage this data bank and build their skills and capacity to use this information for spacial planning, deciding beneficiaries and planning all development.
3. This data will also be made available to all members of the Gram Sabha.

XV. State Obligations:

1. Elections to the Gram Panchayats shall be mandatorily conducted three months prior to the end of its term.
2. The State Government shall publish the orders and circulars issued by its various departments within 24 hours on their websites.

XVI. Penalties:

Any violations of the Constitutional provisions or the Karnataka Panchayat Raj Act shall be liable for punishment as prescribed.

CHAPTER V

AN ASYMMETRIC FEDERALISM: INDIA'S NEED FOR GRAM SWARAJ

"The Government of the village will be conducted by the Panchayat elected by the adult villagers, male and female. These will have all the authority and jurisdiction required. This Panchayat will be the legislature, judiciary and executive combined to operate for its (term) of office. Here there is perfect democracy based upon individual freedom. The individual is the architect of his own government."

- Mahatma Gandhi

India is described as a Union of States with a Union Government and State Governments that are duly elected. The responsibilities of the state are divided among tiers of government. This sharing of responsibilities is listed in the 7th Schedule of the Constitution and with the 73rd and 74th Amendments, this now includes 'local self governments' with subjects that they shall be responsible for, listed in the 11th and 12th Schedules.

However, we are torn between a centralised hierarchy and a participatory decentralised democracy. We have taken aspects from the Government of India Act of 1935 passed by the British in the House of Commons to govern British India and some of their laws are still on our statute books. This has inserted into our federalism a conflicting chain of command. For example, all residual items not mentioned in the 11th schedule are the responsibility of the Union even if they can and should be carried out by the States or other tiers of government. Another example of this duality is Article 256 of our Constitution that gives powers to the Union to give direction to the states under certain circumstance and Article 356 gives the Union the power to even dismiss state governments.

In the mid 60's there was a further deterioration of our Federal Democracy with strong moves by the Union Government to centralise our structure and this put constraints on the autonomous functioning of PRIs. Elections were not held and development programmes were administered directly by Ministries through line departments and several para-statal bodies were created and funds were reduced. The bureaucracy strengthened itself and panchayats were made into delivery agencies subordinate to the State and Union governments.

Though the 73rd Amendment was enacted and several States including Karnataka, legislated Panchayat Raj, the system was working against it. The Panchayat Raj Act of 1993 was mangled out of recognition by amendments, executive government orders and most of all, out of a reluctance to recognise PRIs as independent units of government at their respective levels.

Unfortunately, there is a clash of perspectives between the vision of the Mahatma and our tendency to centralise. We have a strong predisposition to centralise the federal nature of the

Indian Union. As a nation we have imbibed a colonial mentality from our colonisers where we trust our bureaucracy more than our people or their elected representatives. Those in positions of power are willing to decentralise only up to their level and not below and by the same reasoning, those that make the laws are the ones who have the largest vested interest in blocking total devolution.

We are surrounded by examples of centralisation or vertical hierarchies and when we are in doubt we fall back on the familiar. Feudalism, patriarchy and vertical hierarchies are imbedded in our families, schools, other intuitions and communities. We have a pecking order based on caste, gender and class. Our bureaucracy, the Indian Civil Service, established by the British to control India and collect revenue, is still alive and well. Their names may have changed, but the nature of the beast is still the same. It is not surprising therefore, that these tendencies have crept into our political structures and we have veered more towards 'centralisation' than a truly federal system with autonomy to each tier of duly elected government.

Gram Swaraj was not envisioned based on the asymmetrical federalism that we practice, but on the federalism we aspired to. It is the shock therapy needed to infuse a new perspective into our democracy and set an example of true federalism that would change the face of Indian democracy.

But this is a hard task to accomplish. How do you build a different body on an existing skeleton that was not designed for it? Working with a well entrenched vertical hierarchical bureaucracy we find it hard to reshape the functions of our democracy to fit a form that is not designed for it. And so we are inclined to allow function to follow form, rather than the other way around. Unfortunately, we, as a nation, have slipped into a conventional centralised mind-set.

After 20 years, this Committee has given us the historic opportunity to right these wrongs imbedded in the system, that crept in not because those who drafted the earlier Acts did not believe in Gram Swaraj, but because they believed in it deeply. They were practical politicians, who knew that limited compromises needed to be made in order for those Bills to be passed and intended to bring in the changes gradually, but they were also thwarted by the system. They vested their trust in the next generation and we have an obligation to discharge this duty.

It was therefore predictable that in our Committee there were many preconceptions arising out of how we have experienced Panchayat Raj, and the practical difficulties faced on the ground. We have had some very deep discussions and heated debates on a number of issues. But these were gradually set aside and replaced with a deeper understanding, as our conversations were always anchored in the values and principles of Gram Swaraj.

Law should be ahead of the times. That is why sati was abolished and now child marriage. But sometimes it is behind the times or conforms to the popular notion of the times as lawmakers are also invested in their communities. For example, in many states of America gay marriage and abortion are still illegal.

We cannot give in to this tendency as we have been vested as custodians of Participatory Democracy and Gram Swaraj and perhaps, not for another 20 years will we get a chance to shape the lives of millions of people living in rural areas, many of them in abject poverty! This Committee recognises the responsibility that goes with this and therefore we have tread very carefully, searching our conscience at every step and evaluating every decision we made.

Fortunately, the Chairperson and members of this committee are visionaries, not conformists. We are all committed to Gram Swaraj and though we subscribe to different political ideologies we all agree on the principles and values of local self government. That is what has made this effort both satisfying and fruitful.

CHAPTER VI

DEEPENING DEMOCRACY AND FEDERALISM

“Independence must begin at the bottom. Thus, every village will be a republic or Panchayat having full powers. It follows, therefore, that every village has to be self-sustained and capable of managing its affairs. Ultimately, it is the individual who is the unit. Such a society is necessarily highly cultured in which every man and woman knows what he or she wants and, what is more, knows that no one should want anything that others cannot have with equal labour. There will be no castes such as we have today with their graded untouchability.”

- Mahatma Gandhi

Our first task was to identify the elements that would deepen our Democracy and Federalism through this new enactment. We had to bring about a paradigm shift for viewing Panchayat Raj Institutions **not** as mere sub-contractors or as delivery agents of Central and State Government schemes. Not just as a mechanism that were an extension of the existing vertical structures of government, but as duly elected governments in their own right who are agents of change; governments that carry out the decisions of their constituency, the Gram Sabha of people who are the sculptors of their own destiny.

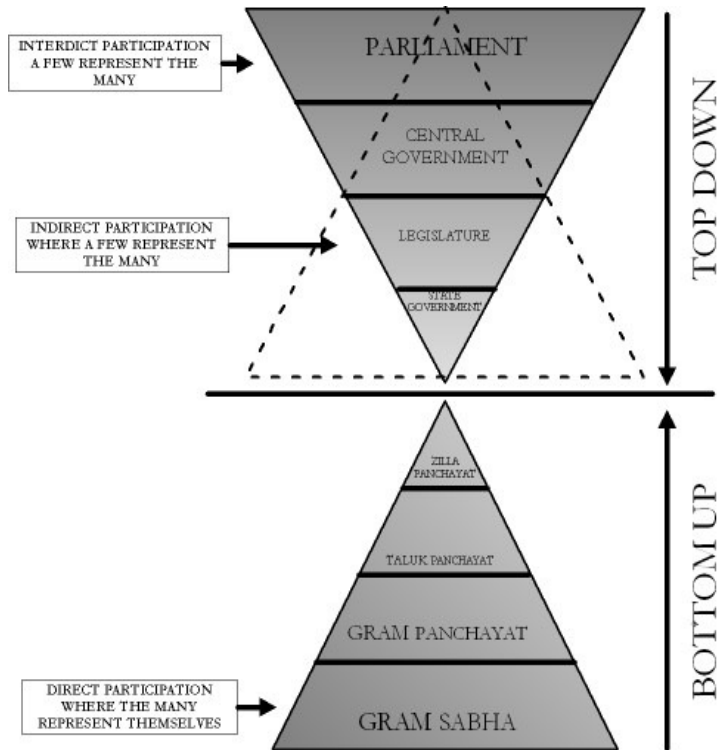
All functions had to be ‘People Centric’ ensuring the Constitutional right of all people to determine the present and future of their villages with the power and resources to transform their communities and habitations to the vision of the one they aspired for.

In order for this to take place; the accent had to shift from mere top down implementation of ‘development’ schemes designed by those in New Delhi and Bangalore, far away from the real ‘Bharath’, to bottom up planning for inclusive development with a focus on equal rights and social justice without any gender or caste bias.

- **People Centric:**

The structure has to be ‘people centric’ with primacy given to the Gram Sabhas. It has to be as the Mahatma envisaged; the *“legislature, judiciary and executive combined”* so gradually India will not be *“a pyramid with the apex sustained by the bottom”* but *“a majestic tree whose trunk cannot be shaken off its roots which are deep down in the bowels of the earth (and) the mightiest wind cannot move”*, of which *“we are all leaves”*.

But the perennial complaint is that Gram Sabhas don't work. Either they are not called or if convened, very few members participate. There are several reasons for this. The members of the Gram Sabha have no powers – their duty is to list beneficiaries for various schemes handed down from above. They have no power to design schemes, determine development plans according to their needs, nor do they have budgets to do this with. Even if they had, the functionaries responsible for implementing these projects report to other bosses over which the panchayats have no control.



Gram Sabha members know that voicing their concerns is futile as their elected local governments, especially the Gram Panchayat, has neither the resources nor the institutional machinery to address these issues, rendering them helpless to either respond meaningfully or be accountable to their constituency.

They are much like milk delivery boys who cannot be blamed for the quality of the milk or the stock availability yet are the first interface with the consumer and therefore get the flack.

- **Special Gram Sabhas:**

It has however been seen that when special Gram Sabhas have been held on issues of special interest such as 'violence against women' or 'danger zones for children' or 'the quality of food in the Anganwadi', the turnout has been overwhelming. This was because people decided to take control and address these issues through their own initiatives. In 2003 in North Karnataka several Gram Panchayats took over Anganwadis and supplied locally prepared food from local produce for more than a year when the quality of centrally supplied food was appalling. Children in the Karavali belt mapped the danger zones in their villages such as highways without signals or pedestrian crossings, unlit roads, deep unprotected granite quarries, irrigation tanks that were submerged in the monsoon and so could not be seen; and presented this at the Makkala Gram Sabhas. As a result the Gram Panchayats in one Taluk alone spent more than eleven lakhs sanctioned by the District Commissioner to address these issues by putting in place protective measures and bringing out a handbook on safety for children. Women have recently participated in 'Women's Gram Sabhas' in 57 panchayats, in such large numbers that it was unprecedented even for a regular Gram Sabha to plan and implement mechanisms for their safety and to protect their freedom and rights. This included the selection of 'Mahila Mitras' or 'Women's Friends', rape crisis response teams, a toll free number for emergencies and

sensitisation and the capacity building of all stake holders. One can only imagine what could be possible if the Gram Panchayats themselves had the power to use funds and functionaries at their discretion to discharge their obligatory functions.

With complete devolution of the 3Fs Gram Sabhas will have an impetus to exercise their constitutional rights, but even then Special Gram Sabhas will have an important function as the voices of special groups need to be heard in an environment earmarked especially for them.

Special Gram Sabhas therefore are mandatory, a practice that the Government of Karnataka has already established by Government Order. Women, children, the scheduled castes and tribes, the backward classes, linguistic minorities, sexual minorities, senior citizens, the disenfranchised – migrants and the differently abled, need their own space to discuss issues particular to them and their communities and design plans to address them.

For example the plan for the budget set aside for the scheduled castes and tribes must be decided in a Special Gram Sabha held by them. In the regular Gram Sabhas, they are hesitant to speak or even attend as the voices of the upper castes or dominant classes tend to be louder and their concerns get diluted. In a special Gram Sabha, their comfort levels are higher and they feel more confident to speak up and voice their concerns. There is no fear of being ridiculed by others and they have the undivided attention of their elected representatives and officials.

It has been seen that after Special Gram Sabhas, the attendance in the regular Gram Sabhas has increased substantially as the special groups have a reason to attend and ensure that their plans have been included in the consolidated plans of the village.

- **Priority Ranking Matrix:**

It is generally believed that deciding issues according to the majority vote is democratic. This is not true and not democratic either. The notion that the majority will 'look out' for the marginalised and represent their concerns has been proved false and that was the rationale for reservations in the first place. But reservations are not enough to protect their rights, what is required is a democratic system of prioritising development issues that gives weight to 'urgency', 'need', 'coverage', 'backwardness' and 'feasibility'.

The Committee therefore decided to include the 'Priority Ranking Matrix' as a tool for the selection of beneficiaries, prioritising schemes and programmes and deciding on development plans for a village.

- **Direct Election of Adhyakshya:**

For some time there have been strong arguments for a solid hierarchal bureaucracy that would ensure the delivery of schemes, reduce corruption and ensure monitoring – in other words – an 'Officers Raj'. There are also arguments for a powerful Adhyakshya, elected through direct election with the powers to implement programmes and take unfettered decisions.

This we felt would destroy the organic nature of the community and the principle of 'one among equals'. This would make the Panchayat Adhyakshya 'centric' and not 'people centric'. The other members of the Gram Panchayat, who were also duly elected to represent their constituencies and protect their interests, would be sidelined as their vote banks would be considerably smaller than that of the Adhyaksha's. Besides being a clash of two electoral systems in the same body that would veer us away from democratic federalism even more and reinforce centralised power, it was also felt that 'power corrupts and absolute power corrupts absolutely'. The body and the Gram Sabha would become irrelevant and money power would entrench itself even deeper in our body politic.

On closer examination of States, for example Tamil Nadu, where direct elections are held for the post of Adhyakshya, there is no evidence to show that the delivery of services and the implementation of schemes is any better than elsewhere. Neither is there evidence that the participation in the Gram Sabhas is greater. Further, the issues raised by individual members reflecting the concerns of their constituents are ignored and the members feel sidelined. These panchayats are virtually a 'one man' show.

It is interesting to note that the reason for giving States the option for direct or indirect elections for the Adhyakshas at the Gram Panchayat level in the 73rd Amendment was because at that time in Punjab there were very small village panchayats, 1,000 people or less, which would elect very few members; whereas, the Block had 1 to 2 lakh people and the District, even more. For these two tiers, namely the block and district, indirect elections were made mandatory. However, for small village panchayats, a direct election was more suitable. It was therefore left to the States to decide the question based on the size of Gram Panchayats. But now with much larger Panchayats, this is no more applicable, especially if the size of a Panchayat is to be increased to a population of 10 to 15 thousand.

This argument was laid to rest. The power enjoyed by the Adhyakshya and the other members of the Panchayats, is the power vested in him/her by the people to whom she/he was accountable, and with it comes grave accountability and responsibility. With direct elections the Adhyakshya is virtually a dictator who can be benevolent if she/he chooses to be and ensure efficiency, but if not, can be oppressive and corrupt. Besides, there will be no checks and balances to curtail mal practices as the members will be of no consequence. This was also the observation of teams who visited States where direct elections are the practice now.

For us 'participatory democracy' was the key and our aim was to ensure an inclusive democratic participatory process, by, for and of the people, protecting their autonomy; and not just 'development' for the sake of it, but development that is based on the local specific needs and aspirations of the people.

- **The Provision of the Panchayats (Extension to the Scheduled Areas) Act 1996 [PESA]:**

We also examined some of the provisions of PESA and found some of them to be useful to move towards our goal and included them where appropriate. Primacy of the individual and his/her community was fundamental to our vision. For example, the recognition that the 'Habitation

Sabha' needs to be the first platform for people to come together to exercise their right to participation and realise their aspirations.

The Gram Sabha, a collective of Habitations, is the foundation on which planning and accountability are embedded. It is the decision making body that regulates the Gram Panchayat and confers authority in the Gram Panchayat to act on their behalf.

Likewise the Gram, Taluk and Zilla are all equal, units of Government like all others. The Committee feels that all three tiers are equal and important in a horizontal, rather than a vertical formation where all the tiers are primarily accountable to the members of the Gram Sabhas.

The Committee also examined the possibility of extending PESA to Tribal and SC/ST pockets of Karnataka.

- **Non-Party Gram Panchayat Elections:**

There was a lot of discussion concerning political parties being allowed to enter Gram Panchayat elections and use their symbols. The Gram Panchayats are now non-partisan and this could potentially raise several other issues that would water down the very concept of 'Local Self-Governments' and mangle the principles of democratic devolution and participatory democracy.

Panchayat Raj is to provide citizens the environment of a participatory democracy to exercise their right to 'direct participation' in the governance of their panchayats and bring alive the concept of non-partisan community participation where each citizen has not only the right but the possibility of exercising her/his right to determine the path of development and to build a just and equitable society through their own endeavour.

Panchayathi Raj was also meant to infuse and inculcate in our pseudo practice of Democracy that is now centralised, top down and riddled with the politics of patronage and petitioning, a sense of true participatory democracy through transparency and accountability of elected representatives to the primary stake holders and custodians of democracy.

This is not to say that ideologies or political awareness will be nullified. Candidates and the electorate will have their individual development philosophies and ideological stands, however, their choice of candidates will be based on their individual merits and who is best suited to represent their aspirations and not based on the political party to which s/he belongs or which party is ruling at the State or Centre.

Political interventions sans ideologies have no meaning. Neither does this attempt to discredit the involvement of parties in State or Central elections, though, even there much is required in the form of election reforms to clean up the system. At the village level, the village is seen as one community and their election of their self-government should not be split on party lines. This would be totally against the vision of the architects of Panchayat Raj.

It is true that several 'strong' and 'good' politicians have come from the ranks of Gram Panchayats and the absence of political parties has contributed to this phenomenon. They were able to grow as individuals representing their communities with a deep sense of accountability, rather than be pawns in the 'ticket' issuing mela that is based on criteria other than ability, honesty, commitment and dedication.

The Gram Panchayat should be the nursery for the above and not reinforce and legitimise partisan politics in its present form, but grow a new breed of politicians that can help to 'clean up' the system and make party democracy what it should be.

Partisan politics will destroy the little that is left of a sense of community and divide the citizens of the Panchayat along party lines. It will increase the influence of MLAs and MPs and split the Gram Sabhas into ruling party and opposition that could also affect the choice of beneficiaries on party lines. The Gram Panchayat will cease to work as one body representing the Gram Sabha members for their betterment.

Instead we need to find ways and means to prevent the growing negative influence of partisan politics in the Gram Panchayats through more stringent measures in the law and by strengthening the role of the State Election Commission. It was also strongly felt that the practice of 'patronage' should be phased out. This would perhaps set new bench marks for political parties and their representatives and help to straighten out and realign our democracy.

- **Partisan:**

However, by non-partisan we as a committee wish to clarify that we mean 'no' to the influence of Political Parties, vested Interests and traditional power centers; but we are partisan when it come to the scheduled castes and tribes, the backward classes, women, children, youth, senior citizens, linguistic minorities, sexual minorities, the disenfranchised [migrants]and the differently abled . We are also pro poor and we believe in reservations and 'positive discrimination'.

- **Women and Weaker Sections:**

Even after 60 years of independence from the British Raj, millions of us still suffer from lack of basic human needs; sanitation, access to safe drinking water, adequate nutrition, shelter, primary education and medical care. This can only be solved by empowering the weaker sections of our population to bring about the change themselves through their local self governments and **not** by making them dependent on 'hand me downs' and palliative measures delivered from above. It is therefore imperative for Panchayats to maintain a special focus on the scheduled castes and tribes, the backward classes, women, children, youth, senior citizens, linguistic minorities, sexual minorities, the disenfranchised [migrants], the differently abled etc:

This Committee especially recognises that as a result of the progressive vertical reservation measures of the Karnataka Government, the participation of women has exceeded 50%, a large number of them from the scheduled castes and tribes and the backward classes. The overall

participation of the scheduled castes and tribes and the backward classes has also exceeded 50% due to the horizontal reservation policy.

Enabling these groups to participate in an active, informed and meaningful manner in the governance of the village, is the key to enabling the turning around of the political pyramid and making each village as Gandhiji said, a “*perfect democracy based upon individual freedom*” and is “*a well-living republic in which there are no illiterates, in which no one is idle for want of work, in which everyone is usefully occupied and has nourishing food, well-ventilated dwellings, and sufficient Khadi for covering the body, and in which all the villagers know and observe the laws of hygiene and sanitation*”

For this to happen women and the weaker sections should not try and play the present political game and compete with it, they should not just change the rules of the game, but change the game itself!

As many members of Panchayat bodies are illiterate or semi-literate, to enable their optimum participation we have also provided for a Special Assistant of their choice, that is not a close relative, to the Adhyaksha and Upadhyaksha of every Panchayat. We also recognise that women, especially those from the weaker sections, have to overcome and cross several barriers before they can function well as representatives of their people and more importantly as Chief Executives of their Panchayats. They have to traverse the barriers of caste and gender, of understanding political structures and power centres, of technology and administrative systems, and women have to first of all cross the threshold of their homes.

We have also provided for mandatory facilities such as separate toilets for men and women, toilets for the disabled and enclosures for breast feeding infants and an environment that is sensitive to and congenial for their participation in panchayat offices.

- **Size of Gram Panchayat:**

Karnataka now has 30 Districts 30 Zilla Panchayats, 176 Taluk Panchayats, and 5627 Gram Panchayats and with the growing population given the existing criteria of a population of 5 to 7 thousand, more Gram Panchayats are likely to be formed. The Committee felt that a Gram Panchayat should be small enough to bring government to the people and large enough to be economically, geographically and administratively viable.

In determining the size of a Gram Panchayat the Committee considered three factors of prime importance. [1] First, the **accessibility** of all the habitants to the Panchayat office to transact their business and access information; [2] second, the **viability** of the Gram Panchayat in terms of finances, functionaries and functions; and [3] important aspects such as population, backwardness, geographical region and agricultural activity also need to be measured and factored into the equation.

After deliberating on all these factors it was decided that a distance of 8 kilometres and a population of 12 to 15 thousand with the exception of Malnad where a population of 5 to 8

thousand would be the bench mark.

It was also decided that there shall be extension counters of the Gram Panchayat for far flung habitations beyond the 8 kilometre radius where the habitations were not large enough to merit a Gram Panchayat of their own.

It is interesting to note that several attempts have been made to reduce the number of Gram Panchayats by raising the population limit, the reason given was that under the earlier pattern Panchayats were too small having limited financial resources and manpower rendering them not viable and therefore incapable of becoming effective instruments of development.

In February 1999, an ordinance was issued reducing the number of Gram Panchayats by raising the population limit of a Gram Panchayat from 5 to 7 thousand, to 10 to 16 thousand. This ordinance was not put into effect and the earlier criteria remained.

It may be argued that with total devolution of funds, functionaries and functions, even existing Gram Panchayats will become economically viable, however, considering the manpower required by each Gram Panchayat to discharge their duties and obligations, the Committee come to a decision that it would be more appropriate to slightly enlarge the Gram Panchayats, reducing the total numbers and thereby, ensuring a more economical distribution of cadre and staff that would put less of a fiscal strain on the State exchequer.

In demarcating these Gram Panchayats based on the new formula, the ward, habitation or village shall not be split.

- **Environment and Ecology:**

Matters of environment and ecology are of serious concern. Ground water levels are falling at an alarming rate, non-biodegradable waste is polluting our land and water sources, denudation of forest cover are causing climatic changes, and shifting crop patterns and land use are reducing our agricultural output. The urbanisation of rural India is rapid and large cities are swallowing up the surrounding panchayats at an alarming rate using them as dumping grounds for urban waste.

Panchayats need to take the lead to protect their surroundings from these phenomena and consider this as one of their prime obligations.

Among the responsibilities that have been given to Panchayats of all three tiers are:

- The development of agriculture including storage, marketing and application of appropriate alternate technology and proven traditional methods
- Land use planning
- Recycling waste for productive use
- Safe disposal of non biodegradable waste
- Regulation of the digging of bore wells

- Water recharging and harvesting
- Implementing alternative technology for generating power

- **Responsibility (Activity) Mapping:**

The Committee began from the 'bottom' or the foundation of devolution by listing the tasks or responsibilities of the Gram Sabha and the three tiers of panchayats [the village, taluk and the district]. We wanted 'form to follow function' as far as possible within our given mandate, and began with an exercise that is popularly known as 'activity mapping'. This process produced an 'activity map' that we renamed as the '**responsibility map**'.

This process did not only examine the levels of devolution of the 29 subjects listed in the 11th Schedule, but also the possibility of other subjects that needed to be devolved through 'Entrustment' or 'Endowment' by the State to Local Bodies. Matters like Social Justice such as violence against women and the scheduled castes and tribes; dispute resolution or the establishment of an environment that allows all people to exercise their rights in an atmosphere of freedom and liberty; Knowledge Management or the creation of an information base for every Panchayat to enable more scientific planning and monitoring; and Electoral Reforms were some of the additional issues considered for devolution.

Following the devolution of functions as reflected in the responsibility map, the devolution of finances and functionaries followed. In this regard, the whole institution was integrated with the appropriate tier of panchayat governing at that level.

The Schedules were drafted based on this foundation and so also the functions, duties and powers of the panchayats. Further, it shall be mandatory for the budget heads to follow the same heads as the responsibility map.

The whole 'Gram Swaraj and Panchayat Raj' Act or Amendment Bill, has been built on this foundation, making it a true 'bottom-up' process.

CHAPTER VII

THE KARNATAKA PANCHAYAT RAJ ACT 1993

“Political decentralisation is not sufficient without simultaneous administrative and financial decentralisation. Panchayat Raj institutions must get direct funding from the government and have their own bureaucracy to regulate their use for local development works”.

- Shri M. Y. Ghorpade

Minister for Rural Development and Panchayat Raj, Karnataka

The history of local self governments in Karnataka begins in the early 6th Century or even earlier. However, the origins of formal decentralisation can be traced to 1862. From then on a number of enactments were legislated and a few schemes initiated.

The erstwhile princely state of Mysore, became the enlarged state of Karnataka in 1956 when areas from three contiguous states, Madras, Bombay and Hyderabad were incorporated, each bringing with it its own history and legislation relating to a number of areas including local government. This included Belagavi, Uttra Kannada, Dharwad and Bijapur earlier part of the Bombay Presidency ruled directly by the British included; Bidar, Gulbarga, Raichur, Yadgir and Koppal from Hyderabad Karnataka ruled by the Nizam; and Bellary and Mangalore from the Madras Presidency and the State of Coorg. As a new act came into operation soon after [1959] the enlarged state was formed, inter-regional differences, at the legislative level, ceased to exist.

In 1983 the Karnataka Legislature then enacted the Karnataka Zilla Parishads, Taluk Panchayat Samithis, Mandal Panchayats and Nyaya Panchayats Act of 1985 following the recommendations of the Ashok Mehta Committee. This act put in place a decentralised system that was really radical. It made the Panchayat Raj bureaucracy accountable to people’s representatives, rather than the state bureaucracy. There was significant reservation for women and backward classes. People’s participation in local government was enabled by Gram Sabhas. It should be noted, however, that the 1983 Act did not introduce some recommendations of the Ashok Mehta Committee. Possibly the most prominent was the one in respect of a linkage between Zilla Panchayats and bigger municipalities by providing for nominees of the latter in the former. In this the Ashok Mehta report was particularly far-sighted by focusing on the growing rural-urban nexus. The passage of time has only served to strengthen this logic.

Consequent to the 73rd Amendment, the Karnataka Panchayat Raj Act, 1993, was enacted in an attempt to strengthen PRIs by adopting measures to promote good governance and accountability through ‘enhanced people’s participation, citizen orientation, responsiveness, improved service delivery, improved financial management and greater downward accountability’ as per a Government of Karnataka RDPR Report in 17.5.04.

This comment in the RDPR Report of 2004, is illustrative of how PRIs are viewed. There is neither mention of aspects that enhance the autonomy of the PRI nor indications that the department honours Panchayats as governments in their own right. They are viewed merely as '**service delivery**' agents and not as a government duly elected by the people that is obligated to design and implement plans sculpted by the people and be accountable to them.

The Salient Features of the 1993 Act

The 1993 Act established a three tier Panchayat Raj system in the State, based on the population as ascertained in the preceding census (1991) of which the figures have been published. It envisaged elected bodies at all the three tiers as mandated by the Constitution.

It provides reservation for one third of the total seats at all levels for persons belonging to the backward classes who had an annual income below Rs. 10000 and two categories of reservations; the B CM A with 26.6% and the B CM B with 6.4% that included Muslims, both totalling 33%.

The offices of Adhyakshas (presidents) and Upadhyakshas (vice presidents) at all levels are also reserved for scheduled castes and tribes and backward classes. Women get 50% of the seats in the reserved categories of Adhyakshas (presidents) and Upadhyakshas (vice presidents). They are also eligible to contest from unreserved seats/offices.

It provides for reservation of seats in favour of scheduled castes and scheduled tribes in proportion to their population and for reservation of not less than 50% of total seats for women at all levels.

It provides for the constitution of a State Election Commission to conduct panchayat elections, and a State Finance Commission to be set up once in every five years to review the financial position of panchayats and recommend budget allotments and the setting up of a District Planning Committee in each district.

The Three-Tier Panchayat Raj System

Gram Panchayat

According to the Act, a Gram Panchayat constitutes a population of 5000 to 7000 and includes a group of villages. For exceptional areas such as Malnad, Hassan, Belgaum and Uttra Kannada a panchayat needs to have a population of not less than 2 ½ thousand. One elected representative or member represents a population of 400 persons and the Adhyaksha and Upadhyaksha are elected from among the elected members.

There are three Standing Committees in the Gram Panchayat, namely:

- Production Committee
- Social Justice Committee
- Amenities Committee

A secretary (and now Panchayat Development Officer [PDO]) is appointed by the government as the administrative head of the Gram Panchayat. The main function of the Gram Panchayat is to promote economic and social welfare, education and health in the Gram Panchayat.

Taluk Panchayat

There is a Taluk Panchayat for each taluk, whose members are directly elected from the designated territorial constituencies with one member for a population of every 10000. The Taluk Panchayat includes local representatives from the State Legislature and Parliament as well as one fifth of the Gram Panchayat Presidents in the taluk, chosen by lots every year (in rotation).

The elected members of the Taluk Panchayat choose two members from among themselves to the posts of Adhyaksha and Upadhyaksha.

The Taluk Panchayats have the following Standing Committees:

- General Standing Committees
- Finance, Audit and Planning Committee
- Social Justice Committee

A Group 'A' officer of the state civil service is the administrative head of the Taluk Panchayat. Taluk Panchayats are empowered to supervise the activities of Gram Panchayats in their jurisdiction.

Zilla Panchayat

There is a Zilla Panchayat for each district consisting of elected members, each representing a population of 40,000, members of Parliament and the Legislature from that district and the presidents of Taluk Panchayats in the district.

The elected members of the Zilla Panchayat choose two members from amongst them to the post of Adhyaksha and Upadhyaksha.

The Zilla Panchayats have the following Standing Committees:

- General Standing Committee
- Finance, Audit and Planning Committee
- Social Justice Committee
- Education and Health Committee
- Agriculture and Industries Committee

A Chief Executive Officer (CEO), not below the rank of Deputy Commissioner is the administrative head of the Zilla Panchayat.

This Act reduced the powers of the Zilla Panchayat substantially and through an ordinance made the presidents of Zilla and Taluk Panchayats the Executive Heads of their Panchayats and gave them executive powers.

Gram Sabha

The Gram Sabha is a statutory body of the Gram Panchayat today. It is obligatory on the part of the Gram Panchayat to convene Grama Sabha meeting at least once in six months. All the adults who are in the voters list of the village are the members of the Gram Sabha.

Since its enactment, this Act has been amended on many occasions, leading to some important changes. The Janata Dal Government constituted an Expert Committee called The Nayak Committee in 1995 with the intension to revamp the Act of 1993 and to restore autonomy of the kind enjoyed under the earlier 1983 Act. The committee recommended many changes that were incorporated in 1997 such as the provisions for consequential arrangements with regard to the position of the new bodies and the devolution of funds and liabilities. Apart from Sikkim Karnataka is the only state that has made a provision for the transfer of fund, functions and functionaries with respect to 29 subjects in the 73rd Amendment.

In the year 1998 seven new districts were formed and the number of Zilla Panchayats increased from 20 to 30. A more significant development was the issue of an ordinance in February 1999, reducing the number of Gram Panchayats. The population limit of a Gram Panchayat was raised from 5000 - 7000 to 10000 - 16000. The reason given was that under the earlier pattern the Gram Panchayat was too small and had limited financial resources and manpower and therefore was not viable and capable of becoming an effective instrument of development.

Certain other provisions in the 1993 Act were intended to impart greater transparency and accountability to the functioning of PRIs:

- (i) TP and ZP members must declare their assets and furnish accounts of election expenses;
- (ii) all panchayat members must disclose their pecuniary interest, if any, in panchayat dealings;
- (iii) meeting proceedings must be displayed within 72 hours on the GP notice board along with the names of members voting for or against the resolutions passed;
- (iv) all panchayats must make available details of works undertaken and expenditures incurred, receipts of funds etc;
- (v) bills of works undertaken in the GP area by TPs and ZPs will be cleared only after the GP concerned certifies that the works have been satisfactorily completed; and (vi) attendance of officials at GP meetings is mandatory.

The Karnataka Panchayat Raj Act, 1993 was amended in October 2003 and the 47 amendments were intended to facilitate people's participation and to make PRIs more accountable to their constituents. Conceptually, the Gram Sabhas provide a space for grassroots participation, but in reality, their functioning has been neither democratic nor participatory. The poor, women, the Scheduled Castes and Tribes and other weaker sections of society, remained marginalised and voiceless.

Instead of ensuring greater and more effective participation, the ward or vasathi sabhas provided for in each constituency of the Gram Panchayat degenerated into bodies to merely identify and prioritise beneficiaries. They approve plans put together by the PDO or Secretary based on budgets and schemes with ridged frameworks, but do not develop their own plans, or generate their own project proposals, or identify deficiencies in rural amenities and be masters of their own development.

However, a very significant step taken in the direction of carrying decentralisation forward is the Belur Declaration adopted in January 2004 under the Chairpersonship of Shrimathi Sonia Gandhi. This declaration lists the steps to be taken by the authorities concerned to strengthen the Gram Panchayat by appropriately devolving powers, functions and funds, equipping them with technical and managerial capabilities and ensuring transparency and accountability in its functions. However, this declaration has not received the attention it deserves.

Some of the steps were:

1. To ensure that a function that can be done at one tier of local government shall be assigned to that tier and not a tier above that reaffirming the principle of Subsidiarity;
2. That the 3Fs [functions, functionaries and finance] shall be devolved correspondingly;
3. That geographical backwardness in certain regions of PRIs shall be set right through comprehensive and appropriate development plans;
4. Agriculture and allied activities shall be merged and consolidated even if they are distributed in various plans and assigned to Gram Panchayats for planning and implementation according to their needs
5. The Mid Day Meal scheme shall be handed over to be managed and implemented by the Gram Panchayat;
6. Elementary education, adult education, libraries, anganwadis and health sub-centres and PDS, shall be handed over to be managed and implemented by the Gram Panchayat;
7. All concerned revenue department funds and functionaries involved in works at the village level shall be brought under the Gram Panchayat;
8. There shall be an Ombudsperson at the Zilla Panchayat;
9. The State shall invest in capacity building to enable Gram Panchayats to discharge their functions effectively;
10. E-governance shall be introduced for Gram Panchayats;
11. All cooperative societies and cooperative banks shall have one representative from Gram Panchayats on the board;
12. All funds related to the supply, maintainance and storage of water shall be devolved to Gram Panchayats;
13. There shall be maximum transparency;
14. A minimum of two ward and two Gram Sabhas shall be held every year;
15. The beneficiaries for all schemes and programmes shall be identified by the Gram Sabhas; and
16. All PRIs shall be strengthened to collect taxes and increase their revenue.

Instead of a forward movement, it is interesting to note that there have been regressive steps in this regard. For example elementary education, anganwadis and libraries have been taken away from Gram Panchayats by Government Orders and many of the other steps have not been taken.

Though Karnataka is ahead of many states in terms of providing enabling provisions for the devolution of the powers and functions to PRIs in keeping with the Eleventh Schedule, true devolution is yet to become a reality. Through the 1993 Act provides for panchayats to function in accordance with the principle of Subsidiarity, that what is appropriate at a given level should not be done at a higher level, the 29 functions listed in the Eleventh Schedule of the Constitution, that were delineated in three separate schedules, each of which was applicable to the Gram Panchayat (GP), Taluk Panchayat (TP) and Zilla Panchayat (ZP) respectively, did not include functions related to the 'bottom-up' preparation of annual plans and annual budgets; preparation of sectoral development schemes to promote agriculture, animal husbandry, rural housing, drinking water, roads and bridges, rural electrification, education, public health, sanitation, women and child development, social welfare, maintenance of community assets, promotion of libraries and so on; that are still designed and controlled by State Government Departments and para-statal bodies.

More powers and functions were devolved in 2004-05 and in order to remove ambiguity, a detailed activity map was prepared for each of the three panchayat tiers. Certain distortions and ambiguities noticed at the implementation level were sought to be removed by rationalising or merging schemes. Such rationalisation has resulted in the reduction of schemes from 421 to 217. Though PRIs are now less burdened by a plethora of department schemes, they are still constrained and straitjacketed by a set of inflexible guidelines that clamp a tight hold on expenditure and leave little room for innovation or flexibility.

In December 2011 more than four thousand representatives of Gram Panchayats from all 30 districts of Karnataka and more than 20 MLAs, MLCs from all political parties, and several experts on Panchayathi Raj and decentralisation gathered in Udupi for a three day consultation and a *Samavesha* (Convention) that resulted in the 'Udupi Declaration 2011'.

The Karnataka Minister for Rural Development and Panchayat Raj, Shri Jagdish Shettar, Shri V S Acharya, District Minister, Chairperson of the Third Finance Commission, Shri A G Kodagi and the Ex-Union Minister of Rural Development and Panchayat Raj, Shri Mani Shanker Aiyar addressed the gathering.

This Declaration contained more than 70 resolutions including the complete devolution of the 3Fs and the need for a revised Activity Mapping exercise, the implementation of the 3rd Finance Commission Report, the revoking of unconstitutional Government Orders and the implementation of some sections of PESA to all Gram Panchayats in Karnataka.

Fiscal Devolution

The 73rd Amendment to the Constitution envisaged transfer of the functions to PRIs listed in the Eleventh Schedule. The Karnataka Panchayat Raj Act has only an enabling provision for transfer of subjects to different tiers of PRIs. So though the State Government through executive orders had to transfer all the subjects to different tiers of PRIs, in fact it did not and there are many subjects and functions yet to be transferred.

Under Article 243-I of the 73rd Constitution Amendment Act, the State Finance Commissions (SFCs) are empowered to determine the quantum of state resources to be devolved to panchayats and urban local governments.

The First State Finance Commission introduced a new criterion in the form of area in addition to population and backwardness. The Second State Finance Commission, while retaining these criteria, replaced development measured by the extent of 'roads' in the area, by the proportion of Scheduled Caste and Tribe population under the third criterion. The allocative formula was changed to 30% each to the first two criteria, namely area and population, and 40 per cent for backwardness. The Third State Finance Commission restated this formula and further developed it. Incidentally, while the State Government broadly accepted the First State Finance Commission recommendations on the quantum of funds to be devolved to panchayats, it did not do so with regard to the allocation criteria and continues to follow the modified Gadgil formula of 1987, on the grounds that the latter was better placed for ensuring social justice.

Human Development

On an analysis of fiscal decentralisation in Karnataka certain features of fiscal decentralisation to rural local governments can be identified that impact on human development expenditures. Formally, Karnataka has transferred all the functions listed in the schedule to local governments, but several are exercised concurrently with the state government. The Karnataka Panchayat Raj Act, 1993 lists 31 functions for Gram Panchayats, 28 items for Taluk Panchayats and 29 items for Zilla Panchayats. The actual objective, however, was to transfer a number of schemes included in the plan – to constitute the 'District Sector' plans – to ZPs, TPs and GPs for planning and implementation. The employees of various line departments in the state also needed to be transferred to the appropriate panchayat tier (Gram, Taluk and Zilla) but were instead transferred to the district under the supervision of the Chief Executive Officer, and did not follow the principle of Subsidiarity. To appease these officials, it was ensured that they continued to enjoy the same powers and undertake the same functions. The expenditure functions were devolved in respect of schemes, with the condition that the local governments could not scrap any of the schemes, and the official's salary was given priority in expenditure implementation.

The resource base of PRIs consists of State Finance Commission (SFC) grants, Central Finance Commission (CFC) grants, State Government grants and Central Government grants for maintenance and development purposes. The fund-wise source and its custody for each tier and the fund flow arrangements in flagship schemes are given in **Tables 1** and **2** below respectively. The authorities for reporting use of funds in respect of ZPs, TPs and GPs are Chief

Accounts Officer (CAO), Executive Officer (EO) and Secretary/Panchayat Development Officer (PDO) respectively. This is an illustration of the extent of fiscal devolution in Karnataka.

In terms of adequacy and reach, the volume of spending assigned to rural local governments continues to be low. While the State Government has transferred the functions and has made some superficial attempts to transfer the functionaries to panchayats, the devolution of funds has been severely restricted.

Table 1: Fund flow mechanism in PRIs

Nature of Fund	ZPs		TPs		GPs	
	Source of fund	Custody of fund	Source of fund	Custody of fund	Source of fund	Custody of fund
Own receipts	-	-	Assesses and users	Bank	Assesses and users	Bank
Assigned revenues	State Government	Treasury	State Government	Treasury	State Government	Treasury/ Bank
SFC	GOI	Bank	GOI	Bank	GOI	Bank
CFC/CSS						
State Plan	State Government	Treasury	State Government	Treasury	State Government	Treasury

Source: As furnished by the Rural Development and Panchayat Raj Department/PRIs
CSS-Centrally Sponsored Scheme; GOI-Government of India

Based on the information in the Link Document, the estimated expenditure by panchayats was 21.8 per cent of the state's expenditure or about 5 per cent of GSDP in 2001-02. Of this, an overwhelming proportion was incurred for non-plan purposes. Plan expenditure was estimated at 38 per cent in 2001-02 and was lower at 27.4 per cent in 2002-03. In most sectors, the resources were just adequate to pay the salaries of the employees and the greatest proportion of expenditure at the panchayat was accounted for by spillover schemes from the previous plans and other salary and maintenance expenditures.

Table 2: Fund flow arrangements in flagship schemes

Sl. No.	Scheme	Fund Flow
1	Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGA)	GOI and State Government transfer their respective shares of MGNREGA funds in a bank account, called State Employment Guarantee Fund (SEGF), set up outside the state accounts. Commissioner-State Rural Employment Guarantee is the custodian of SEGF and administers onward transfer of funds from it to ZPs, TP's and GPs.
2	Sarvashiksha Abhiyan (SSA)	The funding pattern of SSA is aligned with the Five Year Plans. The funding was to be shared between the Central and State Governments in the ratio of 75:25 during Tenth Five Year Plan (2002-07) and 50:50 thereafter. The State Government releases the funds to the district level officers through CEOs of ZPs, who in turn releases to School Development Management Committees for implementation of the Scheme.
3	National Rural Health Mission (NRHM)	Funds for NRHM were released by GOI to the States through two separate channels. State Finance Department releases funds for direction and administration, rural and urban family welfare services, procurement of supplies and services, etc. and directly to the State Health Society for implementation of the Scheme. From the year 2007-08, the States were to contribute 15 per cent of the required funds duly reflecting their requirements in a consolidated Programme Implementation Plan (PIP). Funds were provided on the basis of approval of these PIPs by GOI.
4	Mid Day Meals (MDM)	The central assistance received is credited to the State funds and the State Government after including its allocation of funds, release funds to the ZPs. The Central assistance for the Scheme was provided by way of free supply of foodgrains and also expenditure reimbursed in the form of subsidy for transportation and cost of cooking. In addition, assistance for physical infrastructure like kitchen-cum-store, water supply, etc. was also provided by GOI.

Source: Scheme guidelines and performance review reports of PRIs

Furthermore, the role of the grassroots tier – the GP - was negligible. Allocation to GPs constituted just about five per cent of total district sector outlays and a little over one per cent

of state outlay. This changed only in 2005, when many schemes were delegated to Gram Panchayats.

The ZPs control over expenditure was ineffective due to direct transfer of GOI funds to implementing agencies. A reduction in capital expenditure over the years was due to transfer of funds by GOI directly to the implementing agencies not routed through ZP and TP funds. This rendered the ZPs control over expenditure ineffective and also resulted in their inability to monitor the progress of works/expenditure incurred through GPs, external agencies and also district level offices.

The distribution of resources across different districts is not based on actual needs. It must be noted that a significant proportion of assigned functions to the rural local governments relates to human development. As functions, functionaries and finances are devolved in terms of various schemes, the distribution of funds to various districts is not based on the requirements, but is historically pre-determined and those districts with good infrastructure and have big budgets continue to receive higher transfers. There is little scope, in this pattern, to focus on the deprived districts in allocating resources. This has resulted in the persistence of sharp variations in human development outcomes among different districts.

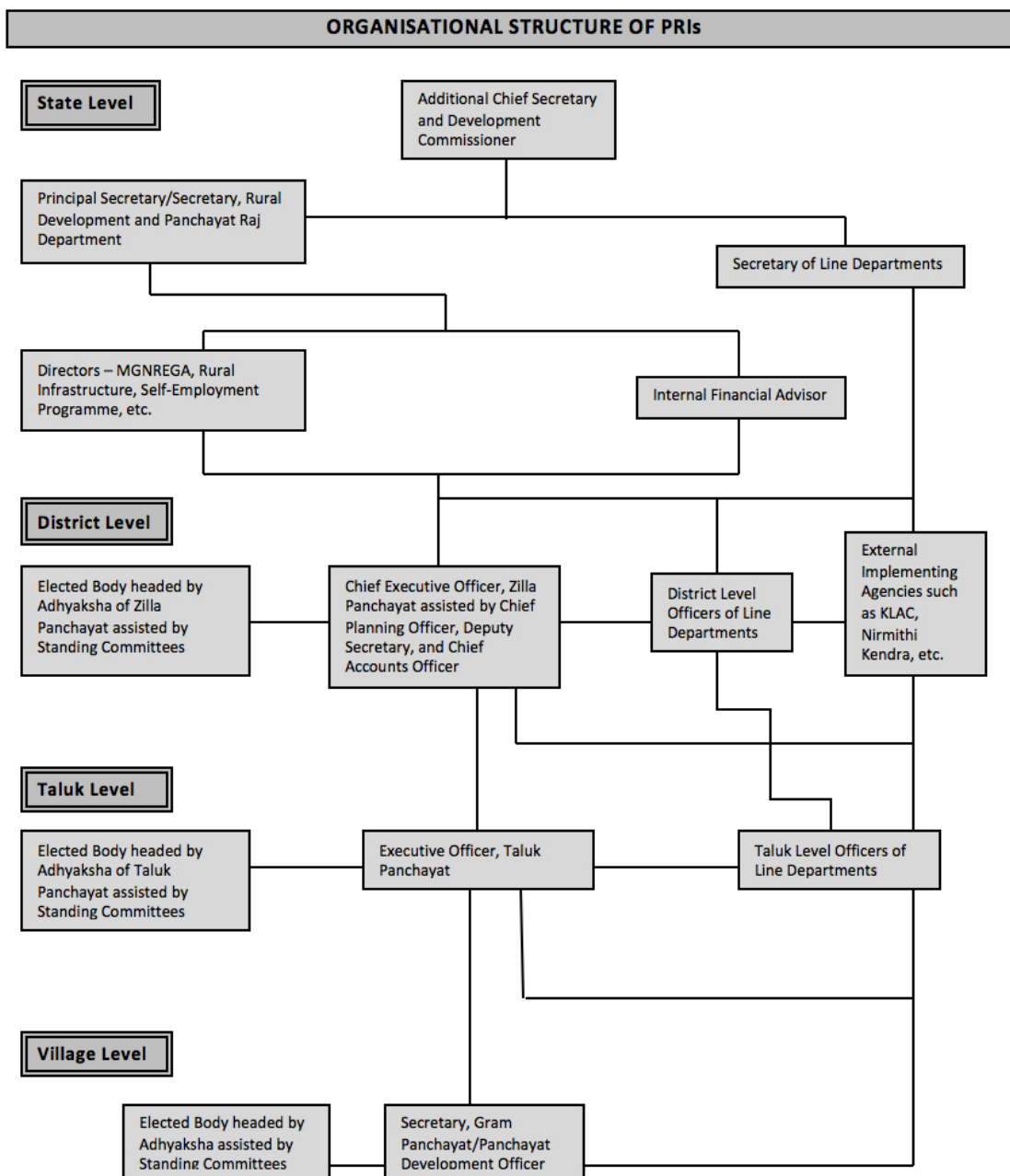
Devolution of funds to local bodies is the easiest component to reduce or compress expenditure. The state government has tried to contain the expenditure growth under the fiscal adjustment programmes initiated in 2002-03, mainly by restricting plan expenditures.

The various tiers of local rural governance in Karnataka are characterised by a plethora of schemes on the one hand, and concentration of outlay in only a few schemes on the other. Although there were over 371 plan and 228 non-plan schemes in 2001-02, only a handful of schemes contributed to the bulk of expenditures. Among the state sector plan schemes implemented in TPs, the pre-school children feeding programme was the most important.

On the non-plan side, disbursement of school teachers' salaries and providing grants to schools accounted for 80 per cent of the non-plan outlay in TPs. In the ZPs too, a handful of schemes were important. On the plan side, piped water supply, family welfare centres and PHCs, SGRY, SGSY, rural sub-centres for family welfare accounted for 55 per cent of the plan outlay on Central schemes in 2002- 03. On the non-plan side, grants disbursed to the non-government secondary schools alone accounted for about a third of expenditures in the ZPs.

Discretionary Funds

The way fiscal decentralisation has been carried out in Karnataka does not empower local governments to provide public services according to the preferences of their residents. An analysis of the outlay on 30 major schemes implemented by the rural local governments' shows that they hardly have any leeway or autonomy in determining their allocation priorities. Of the total outlay, 58 per cent is earmarked for salaries, 11 per cent is simply transferred as grants-in-aid to institutions and 10 per cent is required to be spent on transfer payments to persons.



Source Audit Report (Local Bodies) for the year ended 31 March 2010

Another 16 per cent is earmarked for specified schemes. This leaves the panchayats absolute discretion over only five per cent of the outlay.

However, even here, the panchayats only have the choice to determine the allocation between various input purchases within the schemes, but cannot change total allocation from the

scheme. This suggests that the nature of fiscal decentralisation will have to change to enable PRIs to address area-specific needs in a more focused way.

The general complaint of the panchayat leaders, especially in GPs, is that the funds devolved are not commensurate with the needs of the people and monies sanctioned to them are not released in time to carry out development works.

Gram Panchayats were initially given an annual grant by the State of Rs.1,00,000 in 1993, Rs.2,00,000 in 1999, Rs.3,50,000 in 2000, which was raised to Rs.5,00,000 in 2003. In 2005, they got grants from the Centre under SGRY and under the Eleventh National Finance Commission recommendations. These grants came to about Rs.7,50,000 per annum per Gram Panchayat. In 2005-06, the District Sector Plan outlay shot up to Rs.2,002.89 crore from Rs.939.71 crore in 2004-05. The Central Government grants are now directly released to Gram Panchayats through banks, which makes the releases transparent and less liable to leak during transmission.

The implementation of the 1993 Act has not gone all the way when it comes to the rationalisation of schemes and the complete devolution of more schemes to PRIs that would offer more autonomy to PRIs. This is not surprising as when the Centre decided to directly release its grants to panchayats some state governments opposed the move.

Resource Mobilisation

Taxation is one of the primary sources of revenue of any government. There is also a direct link between people paying taxes and their participation in the utilisation and audit of this revenue. It is true that local governments have not taken a proactive role in raising the resources to increase allocation to social sector expenditures. The ZPs and TPs do not have revenue-raising powers and they function as de-concentrated agencies of the state government in disbursing the salaries of teachers and health workers.

At the same time, the GPs spend just about six per cent of the total expenditures incurred by the rural local governments, and thus, have a negligible role in providing social services impacting on human development. They do play some role in water supply and sanitation and in implementing the SGRY, but the resources available with the GPs for water supply are meagre and in the poorer districts of northern Karnataka, which also have water scarcity, the problem is acute. Their inability to raise resources from the sources assigned to them adds to the problem of inadequate resource transfer from the State Government. The GPs implement 50 per cent of the outlay on SGRY, and to that extent, they play their part in implementing poverty alleviation programmes.

Given the constraints of inadequate devolution, one reason for the relatively minor role of rural local governments in human development is their poor record of raising revenues from own sources. The ZPs and TPs do not have independent revenue raising powers, so they merely implement the schemes designed by the state or the Central government. Only the GPs have revenue raising powers, but in 2000-01, they raised only Rs.16.2 crore, or 0.08 per cent of the

Gross District Domestic Product (GDDP), which in turn, constituted 22 per cent of the total revenues of the GPs. The taxes and rates assigned to gram panchayats are house tax, non-motorable vehicle tax, factory tax, entertainment tax other than cinema halls, water tax, license fee, fees on fairs, and so on. Except property tax, the other taxes assigned are not significant, nor are they elastic; and the panchayats are too close to the people to be able to collect taxes and rates efficiently.

Both the design and implementation of property tax need to be improved. Though potentially lucrative, the tax suffers from a poor and outdated valuation system and the GPs do not have the administrative or enforcement capacity to raise significant revenues from the tax. GPs have been able to collect only 69 per cent of the amount due and the cost of collection of the tax is estimated at 72 per cent. In as many as 42 per cent of the panchayats, the cost of tax collection was found to be higher than the revenue collected. A significant effort will have to be made to strengthen the administrative and enforcement capacity of the GPs to raise more revenues from the sources assigned to them, to enable these local governments to play a meaningful role in rural development.

The state government took certain initiatives in 2003 to help gram panchayats: (i) guidelines standardising rules for collection of property tax were issued; (ii) a process was set in motion for evaluation of tax that was transparent, and allowed people to participate in the tax determination process; (iii) property lists were publicised and put on the GP notice board for inspection. The outcome of this initiative was that there was a 30 per cent increase in the number of properties enumerated and the GP tax demand more than doubled from Rs.80.6 crore to Rs.197.5 crore (RDPR, Government of Karnataka, 17.5.2004:8). It is now up to the Gram Panchayats to improve tax mobilisation.

Social Development

The state has been implementing social legislations and development programmes for equity and social justice for decades, but their effectiveness and reach were affected by the fact that the poor and the vulnerable did not have access to political power. It is now recognised that the marginalized and the poor must have access to various political fora to articulate their problems and grievances.

It is noteworthy that the proportion of these sections increases as one moves down from the upper to the lower tiers of panchayats, which is appropriate, considering that these sections participate more actively in the lower governance levels, where decision-making on the public service delivery should and can take place more intensively.

As a result of the 1993 Act, the system of reservations has brought a large number of first generation representatives from thus far unrepresented social groups into local government. This is a welcome development, but it has also meant that certain gender and caste stereotypes have become visible and are seen quite mistakenly as 'constraints'. One such stereotype is that 'women are foreign to politics and governance'. There is no truth in this and there are many examples to prove otherwise. It is the reluctance of existing power structures to acknowledge

and welcome social and political restructuring in the wake of the 1983 and 1993 Acts. The reservation of seats and authority positions to various social groups has widened the social base of political decision-making to local governments, thus, promoting the possibility of participatory governance and that should provide a good foundation for real autonomy to function if given a chance.

However, the splitting of the 5 year term for Presidents and Vice-Presidents, namely 30 months for the Gram Panchayats, 20 months for the Taluk and Zilla Panchayats, has led to horse trading and the influence of vested interests and political interference.

People's Direct Participation

The Act provides all the mechanisms necessary to ensure that the bodies are representative and their functioning is participatory. Good governance would imply, among other things, a system, which is responsive to the needs and aspirations of citizens and addresses their needs with the least amount of leakage.

The question that arises next is about the kind of needs and programmes that are identified, and implemented. Projects can be grouped into three categories, viz. (i) social and economic infrastructure projects such as school and hospital buildings, roads, bridges, irrigation tanks, and so on; (ii) civic amenities such as drinking water, drainage and street lights, community buildings, bus shelters and shopping centres; and (iii) sectoral development projects, such as projects that promote agriculture, forestry, village industries, horticulture etc. Amenities take priority because of public demand. However, the preferred projects are construction oriented such as buildings, culverts and roads. Sectoral development projects and industries have not received adequate attention from PRIs. Explanations offered by Panchayat Raj functionaries for their preference for construction oriented projects are: (i) these are the projects which the people themselves ask for and (ii) the panchayats must show 'visible' evidence of having met people's needs, and hence, construction takes precedence over projects with long gestation periods or less visible outcomes such as capacity building. Construction projects lend themselves to leakage and there are reports of PRI members who have become contractors and bid for contracts through proxies.

One argument is that decentralization has decentralized corruption and there seems to be no evidence to the contrary. However, there are reasons for this at the grassroot level: (i) there is absence of social audit by people and their organisations; and (ii) the interlocking social and economic relationships that obtain in rural society, and the existence of small proximate groups in the villages, enable the panchayat functionaries to easily manage the risk of being caught. The Government intends to address some of these issues by establishing offices of Ombudsmen in the districts and strengthening the public grievance machinery.

People's Planning

The 1993 Act has provided institutional support only for planning at the district level with the basic guidelines for carrying this out. The Taluk Panchayats and Gram Panchayats have no institutional support for planning and monitoring. The primary objective of decentralised

planning by PRIs is to promote rural development by identifying local needs and prioritising activities. This is a major lacuna in the implementation of the Act and defeats the very purpose it was set out to achieve.

Inputs for planning are not obtained from the people, and it is the panchayat members and officials who supply inputs in the Gram Sabha meetings. Consequently, development plans prepared by the panchayats turn out to be plans made by officials and the elected representatives of the people, and not plans of the people prepared by the people. Despite this, some panchayats have ensured people's participation at the stage of implementation of projects through special committees, and projects are completed efficiently and in time. In other panchayats, where people are not involved, implementation of projects is inefficient and not cost-effective.

Audit observed that the DPCs did not forward the Annual District Development Plans (ADDPs) to the State Government for integration with the State Plan. The DPCs finalised the ADDPs by merely consolidating the plan proposals received from the line departments without visualising the plan for the district development. None of the DPCs had engaged technical experts in the various fields during the preparation of the development plans.

The District Sector Plan is supposed to be a blend of plans emanating from Panchayat Raj institutions and urban local bodies. The integration of plans from all the tiers does not always result in a seamless document, and instead, a jumble of projects with no time or project connectivity is produced. District Planning Committees need capacity building if they are to function effectively as nodal planning agencies at the district level.

Further, there is a need to ensure that the planning process is free from any kind of state intervention. In fact, with a view to making it more relevant and strong, the Working Group on Decentralisation (March 2002) holds the view that the planning process should move away from sectoral planning to a system of integrated area planning.

Accountability and Transparency

The Constitution empowers States to legislate on PRIs under Seventh Schedule and Part X of the Constitution of India. Further, in accordance with Panchayat Raj Act and rules made thereunder, the State Government also exercises its powers in relation to PRIs in several ways.

The KPR Act entrusts the State Government with the following powers so that it can monitor the proper functioning of the PRIs:

- call for any record, register, plan, estimate, information, *etc.* from the PRIs;
- inspect any office or any record or any document of the PRIs;
- inspect the works and development schemes implemented by PRIs; and
- take action for default of a Panchayat President, Secretary/PDO.

Removal of Adhyaksha and Upadhyaksha

The State Government has powers to remove Adhyaksha and Upadhyaksha of ZP/TP/GP after following the procedure prescribed in KPR Act as mentioned below:

Every Adhyaksha and Upadhyaksha shall, after an opportunity is afforded for hearing him, (and if necessary after obtaining a report from the TP/ZP/State Government and considering the same) be removed from his office as Adhyaksha or Upadhyaksha by the State Government for being persistently remiss (or guilty of misconduct) in the discharge of his duties. An Adhyaksha or Upadhyaksha so removed who does not cease to be a member shall not be eligible for re-election as Adhyaksha or Upadhyaksha during the remaining term of office as member of such GP, TP and ZP.

Social Audit

The State Government introduced KPR (Conduct of Panchayat Jamabandi) Rules, 2001, a social audit exercise, through which people have a chance to assess the works of their GP. Panchayat Jamabandis are being held in all GPs in the State.

Auditor General's [AG] Audit

State Accounts Department (SAD) is the statutory external auditor for GPs. Its duty *inter-alia* is to certify correctness of accounts, assess internal control system and report cases of loss, theft and fraud to auditees and to the State Government.

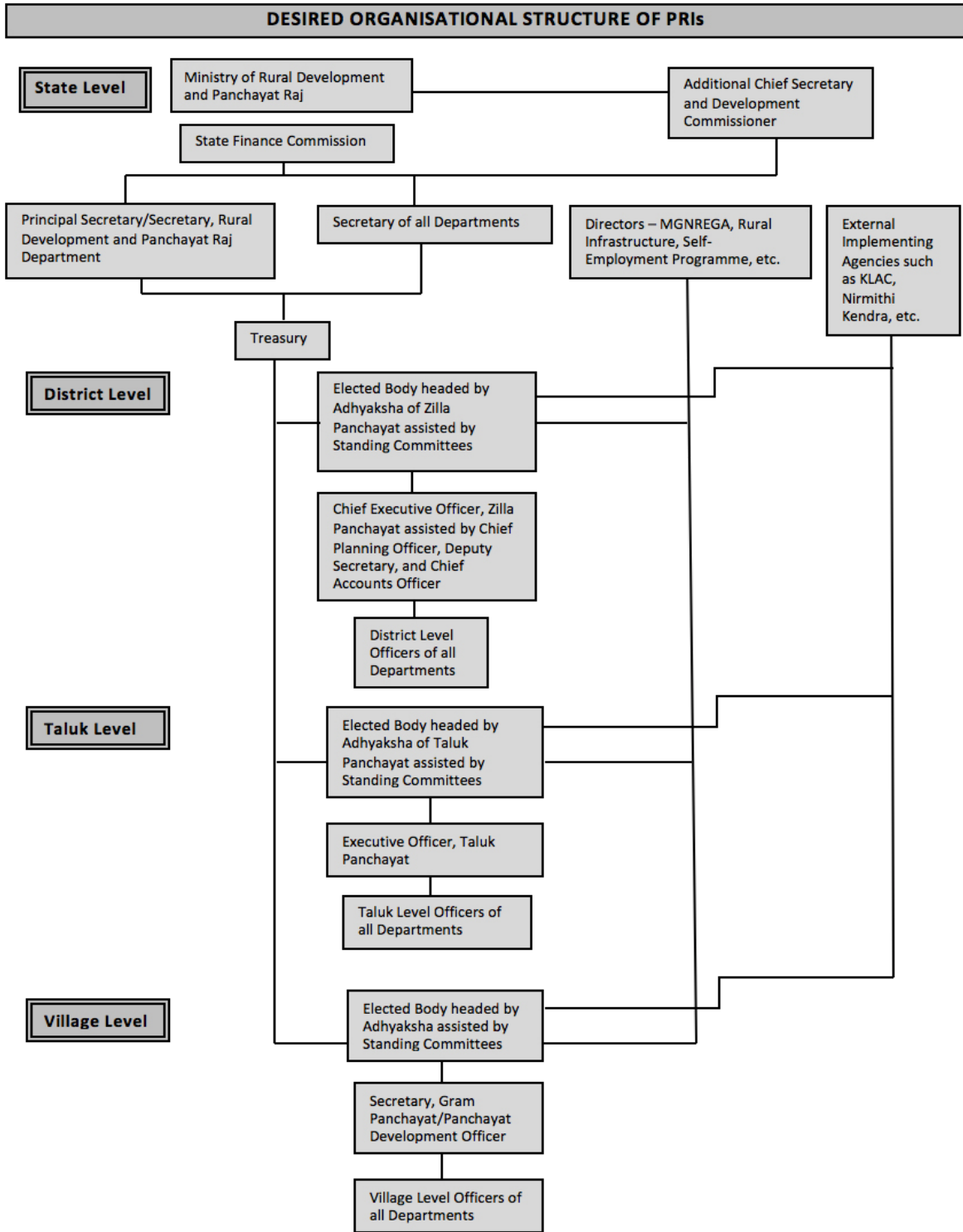
The Comptroller and Auditor General of India (CAG) audits and certifies the accounts of ZPs and TPs as entrusted under Section 19(3) of CAG's Duties, Powers and Conditions of Service (DPC) Act, 1971. The Controller of State Accounts, audits the financial statements and transaction accounts of GPs under KPR Act. The State Government entrusted audit of GPs under Technical Guidance and Supervision Model (Section 20(1) of DPC Act) to the CAG by way of passing an ordinance in October 2010. The period of entrustment of audit of ZPs and TPs to CAG was extended up to the year 2011-12.

Vigilance Mechanism

The Administrative Reforms Commission had recommended the setting up of the institution of Lokayukta to improve the standards of public administration by looking into complaints against the administrative actions, including cases of corruption, favouritism and official indiscipline in the administrative machinery of the State Government and PRIs.

The Karnataka Lokayukta Act was enacted in 1984 empowering Lokayukta to investigate any action which is taken by or with the general or specific approval of the Chief Minister; a Minister or a Secretary; a member of the State Legislature; or any other public servant being a public servant of a class notified by the State Government in consultation with the Lokayukta in this behalf.

The Karnataka Panchayat Raj (Amendment) Ordinance 2010, empowered the State Government to appoint a Panchayat Ombudsman for each ZP, TP, GP or for one or more of



such Panchayats, such number of officers of the State Government to be the Panchayat Ombudsman.

The Panchayat Ombudsman appointed is the competent authority to pass a verdict after hearing the grievances and complaints received against any elected members, officers and officials of the PRIs within their respective jurisdictions.

The Panchayat Ombudsman has the power to investigate any allegation or action taken by Panchayats and the Panchayat institutions and the institutions funded by Panchayat elected members, the officers and officials of the Panchayat institutions which are substantially controlled or funded by the Panchayats. The Panchayat Ombudsman then submits a report to the Government on all the matters including allegations against elected members, officers or officials of such Panchayats or institutions or functionaries referred to him.

Conclusions

Despite the Acts of 1983 and 1993, the amendments and government orders passed to curtail the powers of the PRIs and make them subordinate to State Government Ministries and Departments and the establishing of several para-statal bodies and missions, the evolution of PRIs in the State has shown a downward trend. Despite constant efforts by those committed to devolution and pressure from civil society organizations to ensure that the powers of the Panchayat Raj bodies are not eroded and more functions are devolved to them in accordance with the letter and spirit of the Constitution, in reality it has been the opposite.

The state's role should be primarily, as a resource centre, rather than an enforcer. In this respect, Karnataka has moved steadily away from ensuring greater autonomy for PRIs.

CHAPTER VIII

SOME FACTORS THAT RESTRAIN DEVOLUTION

We learnt that inefficiency could only be ended by entrusting the people at the grassroot level with the responsibility for their own development. We learnt that callousness could only be ended by empowering the people to send their own representatives to institutions of local self-government...– Rajiv Gandhi

It is important that we take cognisance of certain factors that have prevented total devolution from being implemented. V. K. Natraj and Kripa Ananthpur of the Madras Institute of Development Studies [MIDS] have very eloquently described some of these in their Working Paper titled '*Delegation to Devolution: Karnataka*' in February 2004¹. Below are some relevant abridged excerpts:

Organic Linkages

Organic linkages among PRIs is a much discussed issue. From the Venkatappa Committee onwards various modes have been suggested. The Chandrashekaraiya Committee suggested that one-third of the seats in the Taluk Board should be reserved for representatives of Village Panchayats and Town Municipal Councils. The Taluk Board-District Board connectivity was sought to be assured through having the members of the former elect members to the latter from among themselves. The 1959 Act envisaged no linkage between Village Panchayats and Taluk Boards. A link between the latter and District Development Councils was provided for with the Presidents of Taluk Boards being members of the district level body. The 1983 Act had no linkage between Mandal Panchayats and Zilla Parishads, the two elected tiers. However the Pradhans of Mandal Panchayats and members of the Zilla Parishad were ex officio members of the Taluk Panchayat Samiti.

As described above the Taluk Panchayat Samathi was an advisory body which was incorporated as a compromise formula.

Organic linkages have been a part of the 1993 Act from inception. One-fifth of the Adhyakshas of Gram Panchayats are members of the Taluk Panchayat by rotation for a period of one year. Further, all Adhyakshas of Taluk Panchayats are members of Zilla Panchayats. (This is provided for in the 73rd Amendment).

Other innovative institutions devised in the 1983 Act also enable these linkages. An important one is the Gram Sabha. Its constitution was first proposed as part of the 1964 bill. Similarly the

¹ Natraj, V. K. and Ananthpur, Kripa (February 2004), Working Paper No. 184 *Delegation to Devolution: Karnataka*, Madras Institute of Development Studies.

State Panchayat Council, constituted in 1997 was suggested by the Kondajji Basappa Committee.

From 'Agency' to 'Unit of Governance'

Throughout pre and early post independence days the trend was in favour of treating local government institutions as agencies for promoting and executing development work and blending this with popular representation. A significant recommendation of the Chandrashekaraiya Committee needs to be noted. This was that non-statutory advisory bodies should be avoided since they served no useful purpose. Regrettably even at present this has not been given up.

It should be readily conceded that it was the 1983 Act which gave decentralisation an explicitly political character. There are no doubt that there were influences from the past; nevertheless a distinct change in orientation is discernible.

The following provisions of this Act reflect the change.

- Declaring the Adhyaksha the Executive head and placing the Adhyaksha and Upadhyaksha on par with Minister of State and Deputy Minister respectively
- Making the Chief Secretary of the Zilla Parishad function under the administrative control of the Adhyaksha.
- Vesting power in the Zilla Parishad to suspend resolutions/orders of Mandal Panchayats and dissolve them on grounds such as persistent default in the performance of duties etc. (in the case of the Zilla Parishad this power vested with the State Government).
- The absence of a chapter that is present and common in most such legislations that deals with inspection and control.
- Providing for the constitution of a Finance Commission at the State level.

It is these provisions that led to this legislation being acclaimed as truly devolutionary.

However, there were other, not so positive amendments to this Act. The term of office of the Adhyaksha and Upadhyaksha are no longer coterminous with that of the PRIs. They are reduced to thirty months in Gram Panchayats and twenty for the other tiers. This came in through an amendment in 1996 and was based on the recommendations of an Expert Committee. The Committee's thinking was influenced by the need to encourage a larger degree of participation which would help development of leadership. Also government was under pressure to reduce the terms.

Parliament, Legislature and PRIs

Membership in PRIs for members of Parliament and the state legislatures is an extensively discussed issue. Since a consensus could not be reached it was left to the states in an enabling provision in the 73rd amendment. In Karnataka this practice originated with the 1959 Act which gave them membership with voting rights in local bodies.

Following suit the 1983 Act conferred membership for them in the Zilla Parishad. The 1964 bill had contemplated a different scheme—membership only for legislators in Taluk Boards and for them as well as members of Parliament in Zilla Parishads. However, there were two members who dissented from this in the Joint Select Committee. One wanted that such ex officio members be barred from voting in elections to offices of President and Vice-President. Their fear was that legislators and members of Parliament could manipulate the functioning of local government. During the discussions on the 1983 act there were no dissenting views. The present act has conferred membership for legislators and MPs in Taluk as also Zilla Panchayats. However they have no voting rights in elections to the offices of Adhyaksha and Upadhyaksha and in no confidence motions against them.

The argument in favour of membership for MPs and legislators is that it will enable them to be in constant touch with development work in their constituencies. An interesting defense was that legislators, in particular, would anyhow feel threatened by the emergence of local government, it would be better to co-opt them into the system rather than provoke them into hostility from outside. So far (no) government has attempted to implement a recommendation of the Expert Committee that this class of membership be removed. Strains in the relations between elected representatives at different levels have led to measures to placate those in Parliament and Legislatures. Constituency grants are an excellent example and these can be expended bypassing the PRIs. As a matter of historical interest it is worth recalling that two members of the Venkatappa Committee dissented from the recommendation of membership in local bodies for this group of members and their grounds of dissent remain just as valid today.

Gender

Reservation for women is accepted mainly because the Constitution mandates it. Yet there is evidence of resentment, even mild disapproval, subtly expressed. The following questions in training sessions are illustrative of these patriarchal attitudes.

“Uneducated women are manipulated by other members. Would it not be appropriate to prescribe minimum educational qualifications for them?”

“Women holding office are often subjected to harassment. In their own interest would it not be better to do away with such reservations?”

“Women are only proxies. Their husbands are the ones who make decisions, so of what use is reservation?”

It is unnecessary to add that the questioners are invariably men.

This is a good example of ‘**Elite capture**’ where resources transferred designated for the benefit of the larger population are usurped by a few individuals of superior status - be it economic, political, educational, ethnic, or otherwise. Individuals or groups take advantage of government programs aimed at distributing resources or funds to the general public by using their elite influence to direct such assistance in such a way that it primarily benefits the elite group. It is a common disadvantage of decentralisation.

In 2007 there was a case in Kodagu district, an area hardly known for social turbulence. In a certain Grama Panchayat the post of Adhyaksha was reserved for a Scheduled Caste woman.

There being only one such number her election ought to have been a foregone conclusion. In actual fact the other members saw to it that her nomination could not secure a proposer. The Returning Officer allowed the incumbent President to continue after the expiry of the term. It transpired that the woman approached the High Court of Karnataka –under what circumstances it is not known—and the Court expressed itself strongly against what was clearly a conspiracy and ordered that the Panchayat be superseded and that she be appointed the Administrator until the term of the Panchayat ceases. This is a graphic illustration as we shall ever see of the working of a noxious combination of anti-Dalit and patriarchal attitudes.

Governmental Control

Government's control over PRIs is a highly contentious issue. In the earlier system, the 1959 Act for instance, government had wide powers of inspection and control. The Deputy Commissioner could suspend a resolution of a Panchayat or Taluk board on a variety of grounds. Powers of supervision and dissolution were also vested with government. This should occasion no surprise since local bodies were far from being recognised as units of governance.

In the 1983 Act the Zilla Parishad was vested with power to suspend a resolution of a Mandal Panchayat and also to dissolve the latter. In respect of the Zilla Parishad this power vested with Government. The Chief Secretary had no supervisory powers. It is urged by many critical observers and participants, that authentic devolution implies that correctives such as suspension of resolutions and the like should be exercised through the political process with a higher tier having the power over lower tiers.

There was a major change in the 1993 Act. It brought in an entire chapter on inspection and supervision. This has to be appraised in conjunction with the absence of a provision declaring the Adhyaksha the Executive Head as was done under the previous act. This was amended later in 1997. In its original form the power bestowed on the Chief Executive Officer (operating in the Zilla Panchayat) was sweeping. The CEO had the right to suspend the resolution of a Grama or Taluk Panchayat. Government had this power over the Zilla Panchayat. These provisos were amended during 1994-99. The power now vests in the Adhyaksha of the Taluk and Zilla Panchayat in respect of the Grama and Taluk Panchayat respectively. Nor was this all. Government acting through the Commissioner could dissolve a Gram Panchayat. This too was amended in 1997.

Recommendation for dissolution of a Gram Panchayat can now be made by a Taluk Panchayat. The Zilla Panchayat can also act suo moto and has power of dissolution. With respect to Taluk and Zilla Panchayats, government has the power. Possibly the most controversial provision relates to another power of the EO/CEO. He/she has to advise the Taluk/Zilla Panchayat if in his/her opinion a contemplated action or order or resolution is violative of any law. If the Panchayat proceeds with the action he/she is authorised not to implement it. Further the EO/CEO has to report this to the Zilla Panchayat or Government as is appropriate.

Amendments made in 1997 have toned down the severity of the original provisions. For example, while reporting to government the Adhyaksha has to be kept informed. Secondly in

the case of the Zilla Panchayat if government does not communicate its decision within fifteen days the CEO has no choice but to implement the order, resolution etc. This provision, even in its attenuated form, has attracted a lot of criticism. But it does not find itself short of defenders.

Two senior ministers (2006-7) stated that in an inequitable society such supervisory powers are inherently necessary. One of them drew a parallel with the powers of the Union government over state governments including that of dissolution of the assembly. The division between the viewpoints is a manifestation of differences in perception of local government. The necessity of supervision implies a belief that PRIs are yet to mature.

There is also the implication that it is not wrong to use the bureaucracy to ensure that local government institutions function within the framework of policy and the law. Critics, on the contrary, question why the bureaucrat should enjoy more trust than the elected representative, after all both are cut from the same cloth, but they ignore the reality that with some effort a bureaucrat can be transferred whereas the local elites are not so easy to unseat.

It is interesting that half a century ago the Chandrashekaraiya Committee had gone far ahead, much farther indeed than present day law, and had recommended a set of conventions with regard to CEOs. Fighting shy of empowering panchayats to repatriate/transfer them it wanted healthy conventions to deal with those it called "Unwanted Officers".

The 1964 bill advanced to the extent of having a provision under which a Zilla Parishad could require government to withdraw the services of a CEO by virtue of a resolution passed by a two-thirds majority. No such proposal has been heard of since then. Even these recommendations are scarcely noticed in the PR literature on Karnataka. At the other end of the spectrum was a proposal made by a prominent politician, through a private member's bill in the early nineties.

He wanted the CEOs to be empowered to remove an Adhyaksha or Upadhyaksha for misconduct, or for defying orders of government. The bill was withdrawn but it is to be noticed that what we have here is a perspective which is inherently more apprehensive of local elites than the bureaucracy. All of which illustrates the unsoundness of simplistic nomenclature which classifies people as pro or anti PRIs.

Karnataka's Changing Political Scenario

An even longer, and certainly more consistent and successful, engagement is with the advancement of backward classes. Princely Mysore started with a rudimentary policy of reservation in 1874. Since then reservation has remained an active, at times highly volatile, political issue. It has undoubtedly caused awakening among backward classes and it is not incorrect to suggest that it has opened up social and political spaces to widen the base of participation. This widening and opening up of space, has had consequences for decentralisation.

Caste has been an important factor in Karnataka politics. Although the demand for positive discrimination drew inspiration from neighboring Madras (in the twenties and thirties of the last century) Mysore never experienced the kind of 'social revolution' the former did. As a result reservation remained essentially an issue of jobs, and electoral politics.

The political scene in Karnataka began to change after 1969. By the time elections to the Assembly were due in early 1972 Devaraj Urs was in a position to influence the selection of candidates. He was the first Chief Minister from a non-dominant numerically small caste, which accounts for a little over 0.5 per cent of the state's population and a central part of his agenda was to alter the nature of Karnataka's politics. Also he used Prime Minister Indira Gandhi's famous slogan, 'Garibi Hatao' and was seen to be determinedly espousing the cause of the weaker sections and used it to project a pro-poor and pro-backward classes image. One of the early acts of his government was to appoint the first Backward Classes Commission headed by L. G. Havanur, a lawyer, who provided reservation in education and employment for the Backward Classes. As Urs sought to widen his base of support he certainly enabled the entry of numerous minorities into the state's political arena but he did not totally alienate the dominant castes.

The report of the KBCC was submitted in 1975 and the Government Order retained Vokkaligas among the Other Backward Classes but delisted Lingayats. While this was in tune with the Commission's report Urs' government departed from it by including Muslims among the OBCs. He also offered the forward castes a palliative by creating a new un-recommended category called Backward Special Group.

The most striking result of this pro-backward class policy was a social ambience pro backward classes. There is evidence to indicate the rising participation of OBCs in electoral politics. The change from 1972 is quite clear. The widening of the social base in politics is an important phenomenon. In a broad sense, Devaraj Urs' policy towards the backward classes created a new sense of political awareness among castes which till then had been relatively voiceless.

Just a decade later, the recommendations of the second Backward Classes Commission that both Lingayats and Vokkaligas be taken out of the list of Backward Classes was greeted with a furore and the government was forced to compromise to such an extent that there was a reversion to the pre-Devaraj Urs days.

A second important development relates to land reforms. The Karnataka Land Reforms Act, 1961, was comprehensively amended in 1974. Principally it conferred ownership rights on tenants subject to certain conditions. Leasing out was prohibited. So was sharecropping. A ceiling was also prescribed for ownership. Further, eligibility to own land was contingent upon engaging in personal cultivation. However, the tenant oriented legislation should be appraised against the fact that Karnataka has always had a high proportion of owner-cultivators and a low incidence of landlessness.

This was not all. The Land Reforms Act constituted tribunals for determining the rights of tenants. Presided over by the Assistant Commissioner it had four members nominated by Government one of them mandatorily SC or ST. This gave Government and the party power of patronage and also ensured that the pro tenant law was implemented.

While it can be nobody's case that all was fair and that there was no collusion between landlords and tenants the tribunals created opportunities for participation. In addition the government undertook several schemes which were pro-poor in orientation. Housing for the poor is one example. The Secretary, Finance, was also given this responsibility.

All of the above are instanced to illustrate how the policies of the time led to rising political awareness especially among the least advantaged groups.

Several important ostensibly non-political innovations occurred in the 1970s. Government created the post of Economic Advisor and revitalized the State Planning Board. A division for District and Regional planning was created as also one for perspective planning. Academics were associated with the district planning exercise. Plan funds were distributed according to a formula similar to that of the Gadgil formula and made over to the district sector. Farmer Service Societies were established. None of these were overtly political but their impact can hardly be ignored. The later political innovations must have gained from these practices.

Another aggregate to be borne in mind is the effect of the state's reorganization (1956). The enlarged state incorporated Kannada speaking areas from three contiguous states, Bombay, Hyderabad and Madras. This produced several changes: territorial expansion, altered social (particularly caste) configurations, visible regional imbalances especially sharply manifested in the agrarian structure and differences in the nuances and traditions of governance. The new districts came with their own devolutionary histories. The weakest area in this respect was the Hyderabad region.

Bureaucracy – Politician Interplay

At the beginning of the new system several civil servants who were appointed chief secretaries to the Zilla Parishads found it difficult to cope with the demands of the new system. It is gathered that many of them sought repatriation. However their successors managed the adjustment much better and by and large there were no reports of conflicts between elected representatives and bureaucrats. It is not known whether the chief secretaries-designate were given any kind of orientation in how to work in a system where the elected representative at the district level was the head of the system and called the executive head by the act itself. Interviews have shown that the actual relationship between the Chief Secretary and the Adhyaksha assumed different forms depending on their personalities as well as their strengths, weaknesses and talents.

To give one example: in District A the Adhyaksha always approached government accompanied by his Chief Secretary, in district B the Adhyaksha let the Chief Secretary to do all the speaking, in district C. the Adhyaksha came by himself but always returned to seek the advice of the Chief

Secretary. The same interviewee conceded that on the whole it was difficult for an Adhyaksha to function effectively without the advice and support of the Chief Secretary. The impression that one gets is that the bureaucracy is perhaps not as satisfied with the working of the system as it was in the early days. Several explanations are possible. One may be that the bureaucracy has developed an attitude of cynicism and that its fundamental lack of faith in devolution has begun to assert itself all over again. The second is that the bureaucracy has read messages emanating from the state government which indicate less commitment than in the earlier days and that it is taking advantage of the several loopholes that have become a part of the present Panchayat Raj Act due to the numerous changes that have been made through amendments and government orders.

There is, it is suggested, a somewhat complex relationship between these two which varies with the context and personalities. It is tenable to argue that after the 1993 Act came into operation there is a tendency to attribute the problems of the system to the lack of enthusiasm and commitment of the bureaucracy. While there may be some truth in this charge the explanation is likely to be rather more complex and problems will have to be analysed on a more holistic footing.

We have had occasion to point out that the Janata Dal government which succeeded Congress in 1994 enacted several amendments to the Karnataka Panchayat Raj Act of 1993. It also made use of several recommendations of the Expert Committee which gave its report in 1996. However two important recommendations have not been implemented. One relates to not giving membership to members of Parliament and Legislature in PRIs. The other is a recommendation to the effect that all area development boards and those similar to them must be abolished and their functions performed by or through PRI's.

The first has not been implemented because of the perceived threat of legislators in the emergence of panchayats as alternative and competing sources of power. It is not reasonable to expect legislators to legislate against their own interests. The second has not been implemented because this is an area which affords government plenty of opportunity to exercise patronage.

There is also a more fundamental reason or a more fundamental outcome. Despite all the efforts made in Karnataka there are several areas where the PRI is not central to rural activity. A number of parallel organisations are active in particular areas and their work is not made to blend with what the PRI does. This may be due to a combination of factors such as disbursement of patronage and a lack of fundamental faith in panchayat institutions.

Also, the Janata Dal government which ran a full term between 1994 and 1999 did not utilise its majority to bring in amendments which some party leaders and supporters had been advocating. For instance, many supporters as well as important persons in the party were critical of the power being given to the bureaucrat in the present act. There was also a reported move on the part of government to revert to the earlier system of having mandal panchayats

while still satisfying the constitutional mandate of the three tier system. However, no such attempt was seriously made.

Bureaucratic resistance to devolution may well be true. It would be wrong at the same time to ignore its well founded critique of the system. The basic difficulty may lie in the fact that practical issues such as separation of powers and the nitty gritty of planning have perhaps not received more and sustained attention. Even on the duty and power of the CEO to warn against unlawful resolutions and the obligation to report it to Government two senior ministers believe that there is no erosion of power and that for some more time these mechanisms of control are necessary. Critics, on the other hand, argue that these control powers should vest only in a political authority. They ask why local government institutions cannot be trusted. Some go as far as to compare this with the attitude of the colonial power which thought Indians unfit for self-government. Appealing though the argument seems what it misses is that the colonial power was never part of the national dialogue whereas both state government and local government share a commonality in this dialogue.

Behind this there is an essential difference between the two parties to this dialogue. One earnestly believes that local institutions have reached a sufficient level of maturity and are ready to handle power in much the same way as state governments are, the other believes that they are in the process of maturing and that in the transition some measure of guidance and control is not inconsistent with autonomy.

Looked at from a holistic perspective these arguments and controversies can be regarded as signs of health. Today PRIs and indeed devolution are not a matter of indifference. They have come to stay, not least because of the Constitutional status which they enjoy. They occupy a distinct place within the overall system of governance and those who run it have a stake in maintaining it. A very recent example is the demand of legislators for a say in constituency works as ex-officio members of Zilla Panchayats [similar to what ZP members have]. This competition is testimony to the PRI system having dropped anchor. It is of course a moot point how and when the legislator-PRI conundrum will be resolved. Romantic and idealistic proponents urge a total revamp of the system such that the state legislature is reduced in importance virtually to a forum for discussion and PRIs endowed with powers which are separately listed in the Constitution.

This would involve a restructuring of the Constitution itself. Besides it implies concomitant decisions with respect to development priorities— an aspect that receives hardly any extended treatment in the literature. The point is that there will always be differences in perceptions relating to the temporal and scale dimensions of development and planning between different territorial levels.

An interesting feature of decentralisation in Karnataka is the alacrity with which appeals are made to a central authority like the Congress High Command when PR is suspected to be in danger. This appears to have been particularly common when Rajiv Gandhi was alive since he was generally regarded as very highly pro decentralisation.

Dalit Perspective

The Dalit perspective is quite distinct in Karnataka. They are more vocal in defending monitoring and supervisory powers for government over PRIs. This is obviously the result of apprehension of rural elite domination and the view that “society is bristling with inequalities and the government had a duty to be watchful and protective of the interests of weaker sections”.

There was a noticeable shift when the 1983 act was under consideration. In the legislative debates a strong plea was made by members such as Mallikarjn Kharge for statutory reservation of posts of President and Vice-President in PRIs. Government was unwilling to accept this. Government’s response was that this had not worked successfully where it was tried, for example in Andhra Pradesh.

On one point we can be more or less unequivocal. The PR system has developed strengths. It has successfully created a list of constituents who have a stake in its continued existence. This should not be taken as meaning that these beneficiaries will offer outright resistance to the weakening of the system or worse, its disappearance. But it is meant to suggest that a constituency of defenders is present and growing.

Recent Developments

Another development was the constitution of the Task Force (2002), officially the Working Group on Decentralisation. Among its many recommendations the following are significant.

- institution of the Ward Sabha
- appointment of Ombudsman
- prohibiting symbols of political parties in Grama Panchayat elections
- doing away with the requirement that removal of Adhyaksha/Upadhyaksha of any tier by government may include obtaining the opinion of the higher tier
- increasing the frequency of meetings of the Grama Panchayat
- dispensing with the approval of the higher tier for acquiring, holding and disposal of property
- removing the maximum limit on levels of taxation of Grama Panchayats
- providing for representation of Adhyakshas of Taluk and Grama Panchayats in the State Panchayat Council
- direct transmission of ‘developmental’ plans from each tier to the District Planning Committee
- Some of these have been incorporated into the Act as amendments.

Principal among them are:

- institution of the Ward Sabha – each ward consisting of an electoral Grama Panchayat constituency
- prescribing a quorum for meetings of the Ward Sabha, not less than ten per cent of the total number of members or twenty whichever is less

- minimum attendance of women at Ward Sabha meetings, at least thirty per cent of those attending should be women
- raising the quorum for meetings of all Panchayats from one third to one half of the total membership. -
- Adhyaksha as Executive Head of the Grama Panchayat.

State Panchayat Council composition altered as shown below:

- Chief Minister-Chairman
- Minister for Rural Development and Panchayat Raj-Vice-Chairman
- Ten Adhyakshas of Zilla Panchayats (instead of all Adhyakshas)
- Adhyakshas of one Grama Panchayat and one Taluk Panchayat nominated by each Zilla Panchayat (addition)
- Five members of the Legislative Assembly and two members of the Legislative Council (addition)
- Secretary, Department of Rural Development and Panchayat Raj as Member- Secretary.

This is not in line with what the Working Group recommended. In particular the amendment has not implemented the recommendation of giving representation to ten Adhyakshas of Taluk Panchayats and Grama Panchayats. Further, the Group did not suggest membership for legislators. This inclusion must be seen as encroachment on the territory of PRIs. In addition the number of ZP Adhyakshas has been reduced and only nominal representation given to Adhyakshas of the other two tiers.

There are other recommendations which invite comment. One is that while the Ward Sabha has been recommended and constituted there is no organic link between this and the Grama Sabha. Also the recommendation that there should be no supervision of a higher tier over a lower tier seems to negate the principle of political as opposed to governmental control. Government has not acted on the recommendation to remove maximum limits on taxation for Grama Panchayats.

Summing Up

Under princely rule very little power was devolved on local bodies. Inadequate resources haunted them. But there were interesting beneficial repercussions. The District Board became a useful institution because it afforded about the only avenue available for exercise of political activity at the sub-state level. The Praja Paksha – forerunner to the Congress – captured several presidencies of District Boards. Further, over the years, they performed quite well as agents of development activity. This was confirmed in interviews by senior bureaucrats and some politicians. To a smaller extent perhaps they acted as a training ground for aspiring politicians. Committees which inquired into local government after independence have more or less attested to these claims.

An important fact is the controversy which surrounded the abolition of Taluk Boards in 1926. The position of the taluk has figured constantly in the debate. The appointment of two committees soon after independence (1950 and 1954) evidences interest in the question. Both

reports are lucidly written. More important the latter made far-reaching recommendations and in some senses was quite ahead of its times.

Reservation by election for Scheduled Castes and women was one such. An interesting feature is that the Venkatappa Committee's report had two powerful notes of dissent. One which was adverted to [by B.Basavalingappa] concerns co-option of Scheduled Caste members. The other dealt with this and three other issues: indirect elections to the district level body, vesting of 'excessive' power in the Chief Executive Officer and membership for legislators in district councils. It hardly requires stating that two of these are still relevant.

Between pre-and post-independence periods continuity is found with respect to questions such as two versus three tiers, supervisory power of government etc. A gradual evolution is also perceptible. So are some disquieting trends. And they too are part of the legacy. One of them is the long delay in bringing enactments on the statute book. It brings to mind Daniel Thorner's evocative phrase, "prolonged life cycle" of agrarian legislation. The Chandrashekaraiya Committee gave its report in 1954. It was not translated into legislation immediately. In the meantime the enlarged state was formed.

Soon after at the national level the Balwant Rai Mehta report was formulated recommending in effect a two-tier system. By the time a new legislation was framed it was 1959. Sadly, excellence in quality of reports and a sustained high level of discussion were not matched by expeditious implementation.

After the 1959 Act came into force there does not appear to have been much immediate explicit concern over decentralization and local government. This may of course have been because the government intended to give the new two-tier system a fair trial and the first elections were held in 1960. The second was in 1968, this despite a four-year term being prescribed. It is justifiable to suggest that legislators and political leaders at the state level were beginning to perceive local government as a potential threat. The deepening of the democratic process created some demand for devolution but this was met by reluctance to share power from those enjoying democratically elected status (and for some office also) in the legislature.

Nevertheless the debate was not fully concluded. That has rarely occurred in Karnataka. By 1963 Ramakrishna Hegde was Minister for Panchayat Raj and Co-operation. He had a long standing interest in and commitment to decentralisation. Possibly at his insistence a new Committee was constituted in 1963, the Kondajji Basappa Committee.

The recommendations, again far-sighted, have been highlighted. The 1964 Bill, largely inspired by this report, has also been discussed. The Bill was not destined to see the light of day. Events determined that it be so. Hard evidence is not available but it is justifiable to surmise that lack of commitment was a major factor. In addition the assembly was dissolved following the split in the Congress. Quite likely those events had an effect on the state and its priorities.

The 1983 Act was significant in that it contemplated devolution of political authority and on a scale which had not been attempted before in Karnataka. Some of the forces that influenced this move are the following.

At the national level the Ashok Mehta Committee report had urged devolution. This Committee was constituted by the first ever non-Congress government at the Centre and that was in the aftermath of the Emergency. This experience had induced in the country a genuine fear of authoritarianism and although nowhere explicitly stated it must have had an impact on thinking about governance in general.

The 1983 act resulted in several changes in Karnataka politics. Reservation of 25 percent in favour of women was particularly important because as one politician remarked in 1987 he and his colleagues were forced to go literally from house-to-house to persuade women to contest local elections. This must be regarded as an extremely significant part of the opening up process with respect to the mobilisation of backward classes. Even though the 1983 Act did not provide for reservation to backward classes there was a proviso that where no candidate was elected from this group two could be nominated.

In our inquiry into Karnataka the following stand out.

- The state has a long history of attempts to decentralize.
- Devolution has had the advantage of facilitating factors, social and political
- Reports, of excellent quality and far-sighted, have rarely been quickly translated into action
- In many respects the state has shown commendable vision. Reservation for women is one such instance.
- The inter-tier problem is also long standing.
- There is a distinct Dalit perspective on PRIs.

After the 1993 Act became law there is dilution in the power of PRIs. PRIs are not treated as units of governance; indeed even in relation to their role as participatory agencies in development they do not enjoy a pivotal role. Karnataka offers evidence to sustain these criticisms.

The following are illustrative.

- there is a District-in charge Minister
- in addition there is a senior IAS officer designated the District-in-charge Secretary
- a committee is constituted under the chairmanship of the Deputy Commissioner for supervising rural development programmes
- there is also a committee with the member of Parliament as chairman to supervise the implementation of drinking water schemes.

The structure of PR is subjected to frequent change. It may have had an unsettling effect on the system. It has provided adequate opportunity for disclaiming responsibility and shifting it on to the shoulders of one's political opponents.

The system has acquired considerable resilience. On that alone must rest its future. What stands out is that the state's constant engagement with decentralization has influenced the structure which is in place today. Far from regarding the distinct change in orientation which took place in 1983 as a sudden transformative event it should also be appraised against the perspective of past experience. An alternative description is that this represents the confluence of a beneficial objective reality with committed individuals who were prepared to utilize it for a cause and must have been conscious of the helpful nature of the context.

The conflict among the tiers, especially between the taluk and the others, is again a manifestation of competition for political space. Rather than dismiss all critiques of the system as caused by lack of faith in devolution, bureaucratic hostility, insufficient political will and the like, it may be worth examining if some of the changes which have occurred since the nineties may be a response to a finer reading of grassroot reality. Put another way there may now be appearing a blend of idealism and appreciation of ground realities.

The evolutionary perspective delineated above highlights the fact that the present system in Karnataka did not spring out of a vacuum. Rather it is the result of a number of developments which have unfolded over decades. Particularly important is the role played by facilitative factors in the socio-political sphere although at first blush some of them may appear to have only tenuous connections with devolution. The narrative emphasizes the necessity of situating devolution—and indeed other similar phenomena—in the broader historical and evolving social sphere. While a veritable constellation of forces has contributed towards creating a climate conducive for devolution there is the continuing presence of some problems within the devolutionary system. These have been discussed; suffice it to state that perhaps the indication is that these are inherent in the system. Another insight that emerges from the study relates to the adaptive capacity of local government institutions. They are seen as being able to accommodate and adjust to vast changes taking place in the socio-political domain.

**PART III: THE KARNATAKA GRAM SWARAJ
AMENDMENT BILL**

CHAPTER IX

EXECUTIVE SUMMARY OF THE KARNATAKA GRAM SWARAJ AND PANCHAYAT RAJ BILL 2014

“In enacting this law the State of Karnataka affirms its sustained resolve to empower the Panchayat Raj Institutions in the State to be fully authorised to plan, monitor and achieve the welfare of its constituent’s providing no scope for intermediaries, in the true spirit of Gram Swaraj with principal emphasis on the Gram Sabha”.

- Preamble to the Karnataka Gram Swaraj Draft Bill, 2014

The Karnataka Gram Swaraj and Panchayat Raj Draft Bill, 2014 ensures that the State Legislature shall endow Panchayats with powers, authority, functions, functionaries and funds as may be necessary to enable them to function as institutions of self-government and shall guarantee safeguards to ensure that the Governments and Panchayats at the higher level do not assume the powers and authority of any Panchayat at the lower level or of the Gram Sabha in keeping with the spirit of Part IX of the Constitution outlined for local self governments.

In order to ensure the above, the foundation of this Bill is a Responsibility Map derived from a responsibility mapping exercise delineating the functions that shall be discharged at each tier of local self government [Gram, Taluk and Zilla] and include the functions, powers and duties of the Gram Sabha. While the functions of the Gram Sabha are incorporated in the body of the Bill [Chapter II], the functions of the Gram, Taluk and Zilla Panchayats are in the form of Schedules I, II and III.

This Responsibility Map [Annexure V] informed and shaped the construct of the entire Bill. Functionaries were devolved by integrating the whole institution to the appropriate tier of panchayat and so also the finances.

Financial devolution is the fundamental pivot around which devolution revolves. The devolution of powers and functions to panchayats will become a reality only when **all** funds have been devolved and the panchayats have control to utilise these funds according to the needs of their constituencies and as per the plans developed by Gram Sabhas.

The State shall devolve a minimum of 30% of State budget and 50% of that shall be untied. The devolution of funds for GPs will be ‘need based’ determined by Development Bench Marks and not uniformly allocated irrespective of their size, backwardness, geographical conditions or extent of agricultural activity. Instead, the Priority Ranking Matrix shall determine the quantum of funds for each Panchayat.

The State shall constitute the State Finance Commission once in five years and shall be bound by their recommendations.

Several measures have been included to ensure that the revenue of Gram Panchayats is increased including the revision of fees, levies and taxes to be in keeping with current market rates.

Flexibility needs to be built in, budgets for schemes cannot be predetermined and made uniform – ‘the one size fits all’ theory has proved defective. Therefore, total devolution has been prescribed, with funds deposited directly into panchayat accounts. Further, budget heads will follow the sections in the Responsibility Map and panchayats shall have the flexibility to incur expenditure within a budget head from one cost centre to another.

The members of the Gram Sabhas have been restored their Constitutional entitlement to ‘direct participation’ in the governance of their villages and the right to determine the course of their lives. It vests trust in their ability to manage their own affairs and monitor the functioning of their duly elected local governments.

Separate Gram Sabhas have been provided for the SC/ST, Children and Women. The budget allocated for the SC/ST shall be decided in their separate Gram Sabha. Similarly the budget for women and children shall be based on the plans developed by them in their Gram Sabhas.

The three tiers of panchayats are seen as a horizontal structure on par with each other, each executing functions based on their territorial range. All three tiers are accountable and bound by the Gram Sabhas by whom they have been elected to govern on their behalf. This will transform what the three tiers now represent, which is a vertical structure, each one supervising the one on the supposedly ‘lower’ tier.

Organic inter-linkages that as of now do not exist, between the Gram, Taluk and the Zilla Panchayat have been created. One important linkage is the Taluk Planning and Development Committee that includes the Gram and Taluk Adhyakshas. We have also enabled similar representation of Gram and Taluk Adhyakshas in the District Planning Committee.

This Bill reaffirms the Constitutional mandate of PRIs to be constituted as governments in their own right and respects and honours the autonomy of panchayats to meet the needs of their inhabitants in order to ensure inclusive development for all, paying special attention to the voiceless, the backward and the marginalised. The Gram Panchayat is also seen as the ‘front office’ and clearing house for all programmes and needs of its inhabitants.

The Adhyakshas and Upadhyakshas of all the three tiers, who will serve a full 5 year term, have been empowered, their status has been raised and their powers increased. They have been provided with a private secretary and other amenities that will enable them to function as the Chief Executive heads of their Panchayats.

All functionaries have been devolved to their respective panchayats based on the functions required to be discharged by that tier of panchayat. A Karnataka Panchayat Raj Administrative Service has been created for all Panchayat Raj cadres. A separate recruitment board has been

constituted to ensure that functionaries with the appropriate aptitude and mind-set are recruited for Gram Swaraj and that their capacities are enhanced to enable them to acquire the necessary skills and knowledge to efficiently assist their panchayats to fulfil their obligations.

The PDO of the Gram Panchayat, the EO of the Taluk Panchayat and the CEO of the Zilla Panchayat will be known as the Chief Secretaries of their respective panchayats.

Mechanisms and institutions for building the capacity of all office bearers and members of the panchayats, the Gram Sabhas and all functionaries has been provided for, keeping in mind the constraints faced by women and daily wage earners, and therefore will be largely in-situ, ongoing and with an element of mentoring.

The process of elections has been made more stringent and transparent. The State Election Commission shall be entrusted with the responsibility of ensuring that elections are held as per schedule and that all violations of the election code and failure to discharge obligations as laid down in the Bill shall attract penalties as prescribed including the relinquishing of one's seat and a ban on standing for elections for a period. The State shall fund the election of all candidates and campaigning shall be monitored by the Commission.

All reserved and unreserved seats shall be for two terms for all categories (10 years) and the resignation of the Adhyakshya shall be accepted only for very compelling reasons. Reasons and the procedure for passing no-confidence motions against the Adhyakshya and Upadhyakshya have been made more stringent and a time period has been imposed before a second no-confidence can be imposed. Further, the failure to discharge responsibilities can result in 'right to recall' or penalties.

Transparency and accountability to the Gram Sabha has been given prime importance and mechanisms including social audits, Jama Bandi, videotaping proceedings and public display of progress of all work including expenditure and lists of beneficiaries, have been built in.

The fulfilment of social justice and the exercising of one's rights in an environment of freedom and safety is an ingredient of foremost importance for people to participate in their development and so it has been addressed with rigor. All Gram Panchayat seats shall be single member constituencies, to ensure social justice, with greater transparency.

People's planning and reporting, the crux of a democratic participatory democracy, has been designed with a bottom-up approach with the Gram Sabhas as the primary unit for developing plans based on their needs – which is as it should be – with provision for Gram Panchayats to have a say in the consolidation of plans at the Taluk level through a Taluk Planning and Development Committee [TPDC]. The District Planning Committee [DPC] has also been restructured, to the extent that the law would allow, including representation of Gram and Taluk Panchayat Adhyakshas. All tiers of panchayats have been provided with the possibility of constituting all five Standing Committees as necessary to assist in planning and implementation of development work.

An information bank has been suggested for all panchayats to develop and maintain 'Knowledge Management' systems to enable information based planning and strategy development.

A Mahila Bank shall be set up in each Taluk headquarters by the Taluk Panchayat with 3 women Taluk Panchayat Members as Ex-officio as member Directors of this bank to ensure greater women's empowerment, capacity building and political participation.

Development bench marks that are established by local, state and central governments for measuring outcomes and indicators so identified for measuring progress and implementation have been introduced to be used for the monitoring and evaluation of the implementation of plans, projects and schemes.

Mechanisms have been provided for all kinds of dispute resolution:

- Petty disputes among people;
- Between people and their local governments;
- Among local governments; and
- Between local governments and the State.

Three sets of institutions have been suggested. One, the setting up of Naya Panchayats at the Gram Panchayat level until the notification of the Central Grama Nayalaya Act of 2008 for disputes between people; a District Panchayat Tribunal for disputes between citizens and panchayats and between panchayats; and an Ombudsperson for settlement of grievances related to embezzlement and misappropriation or overstepping the boundaries of mandated powers against panchayats, panchayat members and officials.

To prevent and address the sexual harassment of women in the workplace and elsewhere, it has been suggested that the Panchayats set up committees as appropriate on the lines of the Central enactment, 'The Sexual Harassment of Women at Workplace [Prevention, Prohibition and Redressal] Act 2013.

CHAPTER X

UNITS OF GRAM SWARAJ

“The Gram Sabha was conceived as a space that provided an opportunity to the people to voice their needs and aspirations; it was also to be a platform where the elected representatives and the bureaucrats were made accountable to the people for their actions and to serve as a means of ensuring transparency in administration.”

- Karnataka Human Development Report 2005

- **Units of Gram Swaraj:**

The basis of a participatory democracy is the ability and facility of people to participate directly or indirectly in determining their present and future and shaping their development. The Panchayat Raj system was envisaged to enable the direct participation of people in governance. They not only decide what needs to be done, but how this will be done through governments of three tiers that they elect and hold accountable as per the principle of Subsidiarity. *“A government not just for the people, but by and of the people”*, as Ramakrishna Hegde once said.

The fora through which they collectively voice their concerns and find ways to address these will have to be natural groupings reflecting how they live and also assemblies based on comfort and the similarity of their concerns. Therefore two kinds of forums are envisaged; for the former, the ‘Habitation Sabha’ and for the latter, the ‘Special Gram Sabhas’ for women, children, the SC/ST, OBC, disabled, senior citizens and other such groups.

The definition of Habitation has been taken from the Panchayat (Extension to Scheduled Areas) Act, 1996 (Central Act of 1996) [PESA] and reads as follows:

“A Habitation means a settlement or habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs.”

The Ward is an *“electoral constituency within a Gram Panchayat”* and serves two purposes. [1] In areas where a ‘habitation’ is not found, the ward shall be treated as a habitation; [2] the Ward Sabha shall also act as an accountability mechanism between the elected representative and his/her constituents.

The Gram Sabha shall be the primary unit of self-government and shall have the same meaning as in clause (b) of Article 243 of the Constitution that states: *“Gram Sabha means a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of Panchayat at the village level.”* The Gram Sabha shall be the final authority on all decisions concerning the village and shall have the authority to determine development plans

and budgets. The Gram Panchayat and all other tiers of Panchayats shall be bound by the decisions of the Gram Sabhas.

The functions of the Gram Sabha have been integrated into the body of the Act and therefore not delineated in the Schedules.

- **Functions of the Habitation, Ward and Gram Sabha:**

1. **Rights Based Safety and Security** is one of the primary functions. To ensure an environment that is safe and congenial for all groups with special reference to children, youth and women, the differently-abled, Scheduled Castes and the Scheduled Tribes, minorities, religious, linguistic and sexual minorities, senior citizens, the disenfranchised such as migrant communities; so that they may exercise their rights in an atmosphere of freedom and liberty and suggest measures to the Gram Panchayat and their Elected Representative and/or Government Officials so that appropriate action may be taken to ensure their protection from all forms of abuse and exploitation; and identify hazards and suggest measures for the safety, security and freedom of all adults, youth and children residing in the village. This includes ensuring an environment that is clean and healthy.

The following are some duties in this connection:

- a. initiate action to prevent discrimination on the basis of caste, religion, gender and any other grounds;
 - b. tackle the issue of child work and labour [as defined by the Child Labour (Prohibition and Regulation) Act 1986] if any residing or working within the area of the Gram Panchayat and address the concerns of working children;
 - c. prevent Child Marriage and protect children from this practice by informing the Gram Panchayat and their Elected Representative and/or Government Officials so that appropriate action may be taken;
 - d. ensure that no traditional social and religious practices that denigrate the rights, dignity and freedom of any individual, especially women and children with a special focus on those from the scheduled castes and tribes and all weaker sections; are performed in the village;
 - e. eradicate untouchability and social boycotts of any kind and promote harmony and unity among various groups of people in the area of the Habitation;
 - f. organise cultural festivals, literary activities and sports meets that provide opportunities for the residents to give expression to their talents;
 - g. prevent activities of usurious money lending in the Panchayat area and alert the Gram Sabha and Gram Panchayat to take necessary action;
 - h. Implementation of land Reforms
2. **People's Planning** is another primary and important function. The foundation of all planning begins with the people. The conducting of needs assessments surveys or Participatory Rural Appraisals [PRA] with the assistance of the Gram Panchayats, to collect essential socio-economic data and assess the needs of residents and their requirements for their

development so that the Gram Panchayat shall compile and draw up a Forward Looking Plan called the Vision Plan from which will be drawn the Annual Plans.

Explanation:-“Participatory Rural Appraisal” [PRA] is a process of learning from, with and by rural people, to enable local communities to gather information about their village and conduct their own analysis in order to plan and implement initiatives together with their elected representatives and government officials. It enables communities to strengthen their capacity to plan, make decisions, and take action towards improving their own situation through their active and informed participation in the management of development projects and programmes.

3. The **Priority Ranking Matrix** shall be used to determine the precedence of economic, social, cultural and environmental developmental programmes and schemes to be implemented in the area, taking into account the interests of every group to be placed before the Gram Sabha for inclusion in the Vision Plan and the Annual Development Plans of the Gram Panchayat.

The Priority Ranking Matrix shall take into consideration and give due weight to backwardness, extent of coverage, urgency of need, level of impact and feasibility.

This will include the decision of the location of street lights, street or community water taps, public wells, public sanitation units, irrigation facilities, water supply, street lighting and such other public amenity schemes and to identify the deficiencies and suggest remedial measures and report the satisfactory completion of the works and manage the affairs of the area.

It also includes the responsibility for the identification or selection of the most eligible beneficiaries from the area under poverty alleviation and other welfare programs such as pensions and subsidies on the basis of criteria fixed and prepare a list in the order of priority as per the ‘Priority Ranking’ method prescribed to be forwarded to the Gram Sabha for inclusion in its development plan.

- **Obligatory Duties of the Habitation, Ward and Gram Sabhas:**

To **impart awareness** on matters of:

- i. public interest such as cleanliness, preservation of the environment, prevention of public nuisance, pollution and ensuring public peace, safety and security of all people within the area;
- ii. spread awareness on issues of water conservation, preservation of natural habitat and recycling of bio degradable waste and ensure that the area is plastic free;
- iii. promote programmes of adult education, enhancing literacy and education levels;
- iv. promote programs for family counselling, character building and de-addiction among the youth, adults and senior citizens;

- v. promote village, small and medium industries, businesses and commercial enterprises in consultation with associations of women, youth and senior citizens and provide training and capacity building opportunities for their gainful employment and present proposals before the Gram Sabha for action;
- vi. monitor the running of Public Health Centres in the area of the Habitation and assist in the implementation of health programs, especially in the prevention of infectious diseases and family welfare measures and promptly report the incidence of epidemics and natural calamities to the Gram Panchayat, the Elected Representatives and concerned official functionaries;
- vii. conserve and maintain public properties such as *gomaala*, grazing lands, tanks, tank beds, ground water, roads, bridges and mines, within the area of the Gram Panchayat;
- viii. revive and develop folk arts, handicrafts, and home and cottage industries, in the Habitation area;
- ix. mobilize voluntary labour and contributions in cash and kind for development work and supervise such development work through volunteer teams;
- x. make efforts to ensure that the members of the Habitation Sabha pay taxes and repay loans to the Gram Panchayat; and
- xi. assist the functionaries of the Gram Panchayat in providing sanitation arrangements in the area of the Habitation and render voluntary service in the removal of garbage.

● **The Powers of the Habitation, Ward, Gram Sabhas:**

1. Obtain information from the functionaries of the Gram Panchayat as to the services they shall render, the programmes and projects they shall implement and the public works they propose to carry out in the succeeding period of six months after the meeting of the Gram Sabha;
2. Obtain information from the Gram Panchayat on the follow up action taken on the decisions of the Gram Sabha;
3. Prevent the Gram Panchayat from granting license to shops vending liquor or narcotic drugs or to places of gambling or any other activity prejudicial to public interest, health and safety and in locations that are detrimental to the residents of the Habitation; and
4. Take such other measures and discharge such other functions as may be prescribed.

● **Meetings of the Habitation, Ward, Gram Sabhas:**

1. A Habitation, Ward, Gram Sabha shall meet to transact its business once in six months which shall be at least one month ahead of the meeting of the Gram Sabha.
2. Assemblies of Women, the Scheduled Castes and the Scheduled Tribes, Farmers and Artisans, children, youth and the elderly or any other group of individuals within the area may come together as often as they may, to hold meetings among themselves and outline the development needs of their group along with suggestions for addressing them, for being placed before the Gram Sabha at its regular meetings.

3. The quorum for the meetings shall be not less than one fifth of the total number or twenty members of the Sabha, whichever is less.
4. As far as possible:
 - i. Not less than thirty percent of the voters attending the Meeting of the Habitation Sabha, shall be women.
 - ii. Persons belonging to the Scheduled Castes and the Scheduled Tribes shall be represented in the Meeting in proportion to their population.
 - iii. Every Meeting shall be presided over by the member of the Gram Panchayat elected from the area and in his/her absence, by any other member of the Gram Panchayat or by any other person, nominated by the Habitation, Ward or Grama as the case may be.
5. All resolutions in respect of any issue in the Meeting shall be passed by a majority of the members present and voting.
6. Provided that the needs outlined by each such representative group at their meetings shall be taken up by the Meeting and recorded as its own for being presented to the Gram Sabha for action.

● **Additional Powers of the Ward Sabha:**

1. Ensure that the Elected Representative of that Ward represents the concerns of all the constituents of that Ward in the Gram Panchayat as identified by them.
2. Demand accountability and transparency of the Elected Representative of that ward in all her/his dealings as their elected representative.
3. Obtain information from the Elected Representative as to:
 - i. the progress on development plans and implementation of schemes in the Ward;
 - ii. the rationale of every decision of the Gram Panchayat concerning the area of the Ward; and
 - iii. information as to the follow up action taken on the decisions of the Ward Sabha by the Gram Panchayat.

● **Special Provisions for Meetings of the Ward Sabha:**

1. Every meeting of a Ward Sabha shall be presided over by the duly elected member of the Gram Panchayat elected from the said Ward.
2. If the Elected Representative fails to call and/or preside over the Ward Sabha, any other member of the Gram Panchayat may be nominated by the Ward Sabha to do so.

Provided that such an Elected Representative shall on a complaint written or otherwise to the Gram Panchayat by not less than one third of the members of the Ward Sabha, be subjected to penalties as may be prescribed.

Provided further that where the complaint against the said Elected Representative is of failure to perform her/his duties and obligations imposed under the Act, such penalty may extend to her/his removal from office as prescribed.

3. All resolutions in respect of any issue in the Meeting of the Ward Sabha shall be passed by a majority of the members present and voting.

- **Special Powers of the Gram Sabha:**

1. The Gram Sabha shall monitor and evaluate the implementation of all initiatives, plans and schemes implemented in the Panchayat by Central or State Government or any Panchayat body or any other body or institution or elected member.
2. Every Panchayat at the village level shall be required to obtain from the Gram Sabha a certification of utilisation of funds by that Panchayat for the execution of plans, programmes and projects.
3. To obtain information from:
 - i. the officers of the Gram Panchayat as to the services they will render and the works they propose to do in the succeeding period of six months after the meeting of the Gram Sabha;
 - ii. to obtain information from the Gram Panchayat on the rational of every decision of the Gram Panchayat concerning the Panchayat Area;
 - iii. to obtain information from the Gram Panchayat on the follow up action taken on the decisions of the Gram Sabha.
4. The Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land for development projects and before re-settling or rehabilitating persons affected by such.
5. The recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting license or mining lease for minor minerals in the Village Area.
6. The prior recommendation of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory for grant of concession for the exploitation of minor minerals by auction.
7. The Gram Panchayat shall undertake to spread awareness among the residents of the Panchayat to:

- i. disseminate information on development and welfare programs and to render assistance in monitoring effective implementation of development schemes by providing facilities locally available and to provide feedback on the performance of the same;
- ii. to impart awareness on matters of public interest such as cleanliness, preservation of environment and prevention of pollution;
- iii. to exercise such other powers or discharge such other functions as may be done within the framework of law.

• **Special Meetings of the Gram Sabha:**

1. It shall be the duty of the Adhyaksha of the Gram Panchayat to convene the first round of meetings of the Gram Sabhas, as far as may be, within sixty days of his assumption of office and thereafter the next meeting (to be called 'regular meetings') on such date as decided at each meeting by the Gram Sabha. However, not more than six months shall elapse between two consecutive meetings.
2. The Gram Sabhas shall, in a special meeting in the month of December, discuss the budgetary provisions, the details of plan outlay and the subject wise allocation of funds and also the details of the estimate and cost of materials of the works executed or proposed to be executed in the Village Area.
3. The Annual Statement of Accounts of the preceding financial year, the last Audit Note and replies thereto and the Panchayat jama-bandi report and action taken thereupon shall be placed by the Gram Panchayat in the month of April for the consideration of the Gram Sabha.
4. The views, recommendations or suggestions of the Gram Sabha shall be communicated to the Gram Panchayat and they shall be governed by it.
5. The Gram Panchayat shall while formulating the plans, schemes or projects for execution conform to the comments, recommendations and suggestions of the Gram Sabha.
6. Special Gram Sabhas shall be convened for Women, Children and the SC/ST at least once a year.
7. The budget set aside for the SC/ST shall be decided at their special Gram Sabha.
8. A Special Meeting of the Gram Sabha shall be convened whenever a request is made by not less than ten percent of the members of the Gram Sabha specifying the subject for discussion in such request, so however that there shall be an interval of at least three months between any two Special Meetings.

9. A special meeting of the Gram Sabhas shall be called twice a year in the months of October and April, respectively, to consider the plans and budget, and review the finances of the Gram Panchayat.
10. The Elected Representatives of that area shall be present at every meeting of the Gram Sabha.
11. The officers of the Gram Panchayat shall attend the meetings of the Gram Sabha as may be required by the Adhyaksha and such officer of the Panchayat as is specifically nominated as convener of the Meeting shall assist in convening and conducting its meetings, recording all the proceedings in a minutes book and on video tape and ensure follow up action on all such decisions.
12. All resolutions in respect of any issue in the meetings of the Gram Sabha shall be passed by the majority of the members present and voting and the Gram Panchayat shall adopt such resolutions of the Gram Sabha as its own and implement them in the order of priority indicated by the Gram Sabha.
13. A Special Meeting of the Gram Sabha may be convened when not less than ten percent of the habitants make a request in writing signed by them; provided that there shall be a gap of at least three months between two Special Meetings.
14. Such officers of the Gram Panchayat as the Adhyaksha may require shall attend every meeting of the Gram Sabha.
15. The Adhyaksha may by general or special order nominate an officer of the Gram Panchayat to be the convener of the Meeting and such person shall assist the Adhyaksha in conducting the meeting and the officer so nominated shall be responsible to arrange for taking video-recording of the proceedings and keeping a record of the discussions in the minute book maintained for the purpose. He shall also record a brief summary of each subject discussed and decided upon, and initiate follow up action.
16. Resolutions in respect of each subject discussed at the meeting shall be passed by a majority of the members present and voting, indicating wherever desired the order of priority of dealing with the subjects and each such resolution shall be adopted and implemented by the Gram Panchayat in the order of priority indicated by the Gram Sabha.
17. Representative groups of women, the Scheduled Castes and the Scheduled Tribes, and the Farming and the Artisan populations, the youth and the elderly populations etc., within the Gram Sabha may come together as often as may be to hold informal meetings among themselves and outline their needs of the group for development along with suggestions for meeting them, for being placed before the Gram Sabha at its regular meetings.

Provided that the needs outlined by each such representative group at their meetings shall be taken up by the Gram Sabha and recorded as its own for being presented to the Gram Panchayat.

18. All meetings of the Gram Sabha shall be held in an environment that enables the free and active participation of all, especially women, children, youth, the weaker sections, Scheduled Castes and Scheduled Tribes, Backward Classes, the differently abled, minorities and senior citizens.

CHAPTER XI

ESTABLISHMENT OF GRAM SWARAJ

“Independence must begin at the bottom. Thus, every village will be a republic or Panchayat having full powers. It follows, therefore, that every village has to be self-sustained and capable of managing its affairs even to the extent of defending itself against the whole world. Thus, ultimately, it is the individual who is the unit.”

- Mahatma Gandhi

The State Legislature shall endow Panchayats with powers, authority, functions, functionaries and funds as may be necessary to enable them to function as institutions of self-government and shall guarantee safeguards to ensure that the Governments and Panchayats at the higher level do not assume the powers and authority of any Panchayat at the lower level or that of the Gram Sabha.

One of the most important issues that the Committee considered was the size of Gram Panchayats. If it was meant to be ‘people centric’ it had to be both accessible to all the inhabitants, yet a politically and economically viable unit.

• **Size of Gram Panchayats:**

In determining the size of a Gram Panchayat there are three factors of prime importance. [1] First, the **accessibility** of all the habitants to the Panchayat office to transact their business and access information; [2] second the **viability** of the Gram Panchayat in terms of finances, functionaries and functions; and [3] important aspects such as population, backwardness, geographical region and agricultural activity also need to be measured and factored into the equation.

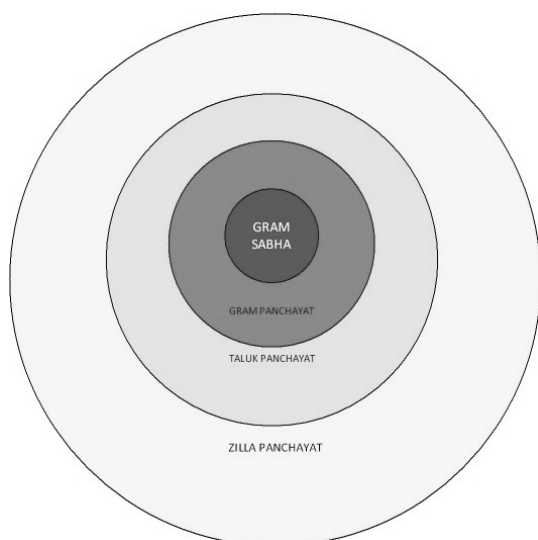
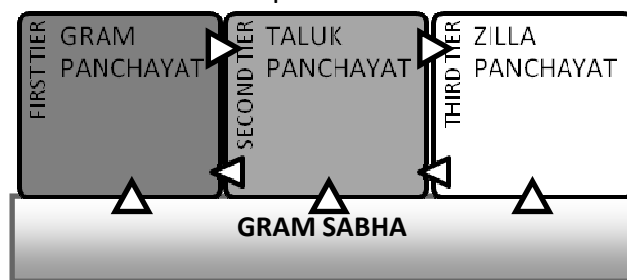
Taking all this into account it was decided to slightly expand the size of a Gram Panchayat to encompass a population of 10,000 to 15,000 and for exceptional areas such as Hassan, Uttara Kannada, Malnad and Belgaum have a population not less than 5,000. A Gram Panchayat shall have a minimum number of nine members and a maximum of twenty-five members and the area of a Gram Panchayat shall not be more than a radius of eight kilometers.

However, if any Habitation was more than eight kilometers away from the office of the Gram Panchayat, an extension counter of the Gram Panchayat would be set up in that Hamlet. It was also decided that there will be single member constituencies consisting of a population of not more than 600 inhabitants.

In the delimitation of Panchayats, it was decided that no Habitation or Ward shall be split and the responsibility of implementing the process of delimitation shall be the responsibility of the State Election Commission as per the guidelines laid down in the Act. Delimitation is a sensitive subject and the Committee would advise great caution in implementing the same.

• **Horizontal Structure:**

Though all three tiers of Panchayats were considered equal there were some functions that would be vertical and some horizontal. When it came to the question of salaries of the Adhyaksha and Upadhyaksha of the three tiers of Panchayats [Gram, Taluk and Zilla], in principle it was felt that they should all receive the same salary while their travel allowance, daily allowance and other facilities such as vehicles etc should vary according to the area they had to administer. However, the Committee conceded this point, as to dramatically change a practice that has been in force for more than a decade would be resisted by those concerned and also demoralise the concerned Chief Executives. It was therefore decided to treat these posts as full time jobs and fix the remuneration accordingly.



The three tiers of Panchayats, all accountable to the Gram Sabhas, would only perform functions that the tier closer to the centre – that being the Gram Sabhas – could not perform or responsibilities that involved more than one Panchayat or overlapped more than one Panchayat area. They were all co duty bearers, only functioning in widening circles and needed to cooperate and work together for the common goal of advancing the aspirations and ensuring the inclusive planning and development of all the inhabitants. Accountability would also be horizontal [see diagram above] – all Panchayats to their Gram Sabhas.

Some vertical functions were inevitable such as upward planning and downward reporting. Grants from the Union and State Governments were vertically transferred and an annual report and the State of the Panchayats Report will have to be presented to the State Legislature by the Honorable Minister for Rural Development and Panchayat Raj. So some vertical processes required upward and downward functions.

CHAPTER XII

FUNCTIONS, DUTIES AND POWERS OF PANCHAYATS

“The state has been implementing social legislations and development programmes for equity and social justice for decades, but their effectiveness and reach were affected by the fact that the poor and the vulnerable did not have access to political power.”

- Karnataka Human Development Report 2005

- **Functions and Powers**

1. The three tiers of Panchayats shall be endowed with powers, authority, functions, functionaries and funds as may be necessary to enable them to function as institutions of self-government and shall guarantee safeguards to ensure that the Governments and Panchayats at the higher level do not assume the powers and authority of any Panchayat at the lower level.
2. The Panchayats – Gram, Taluk and Zilla Panchayats shall perform the functions specified in Schedule I, Schedule II and Schedule III, respectively.
3. It shall be the duty of every Panchayat to meet the needs of the respective Panchayat Areas in respect of the matters enumerated in the respective Schedules and to implement the decisions of the Gram Sabhas.
4. The State Government or Central Government shall provide the necessary funds and functionaries for the performance of all functions specified in the said Schedules and functions that may be entrusted to them from time to time, the respective Panchayat shall perform such function in accordance with the guidelines or norms laid down for their performance.

- **Obligatory Functions of Gram Panchayats:**

Besides the functions listed in **Schedule I**, it shall be also obligatory on the part of a Gram Panchayat to make reasonable provision for the following:

1. It shall be the duty of the Gram Panchayat to protect the **‘best interests’** of all the residents of the Gram Panchayat and ensure that their views and needs as identified by the Gram Sabhas are acted upon and implemented in respect of the matters enumerated in the Schedule and also as elaborated in the responsibility map in respect of Gram Panchayats.
2. As **Planning** is an obligatory function, the Gram Panchayat shall conduct a survey or Participatory Rural Appraisal [PRA] to collect essential socio-economic data including caste wise population census, crop census, cattle census, census of unemployed persons and persons below poverty line with Habitation/Ward, and Gram Sabhas.

3. With the assistance of the Habitation/Ward and Gram Sabhas, the Gram Panchayat shall once in five years collate the plans of the Gram Sabhas reflecting the needs of all residents and the requirements for the development of their areas in order to compile and draw up a Forward Looking Plan called the Vision Plan.
4. In order to determine the priority of the economic, social, cultural and environmental development programmes and schemes to be implemented in the area of the Gram Panchayat, the Gram Panchayat shall collate all the plans approved by the Gram Sabhas taking into account the interests of every group constituting the Gram Panchayat for inclusion in the Vision Plan and the Annual Development Plans of the Gram Panchayat and this plan shall be placed before the Gram Sabha.
5. The Gram Panchayat shall also make provisions for carrying out any other work or programme or take such measures to promote the health, safety, education, comfort, convenience or social or economic well being of the inhabitants and for the protection of the environment within the Panchayat area.
6. The plans approved by the Gram Sabhas shall not be changed.
7. To ensure that the priority of economic, social, cultural and environmental development programmes and schemes to be implemented in the area are based on the 'priority ranking' method, the Gram Panchayat shall take into consideration and give due weight to backwardness, urgency of need, level of impact and coverage.
8. The Gram Panchayat shall collate all the plans approved by the Gram Sabhas taking into account the interests of every group in the Gram Panchayat area for inclusion in the Vision Plan and the Annual Development Plans of the Gram Panchayat and this plan shall be forwarded to the Taluk Planning and Development Committee (TPDC) with a copy to the Taluk Panchayat.

• **Powers of the Gram Panchayat:**

The Gram Panchayat shall have exclusive power to administer the responsibilities enumerated in **Schedule I**.

The functionaries responsible for carrying out the functions enumerated in **Schedule I** along with the funds shall be allocated by the State Government to implement the respective duties and functions vested in the Gram Panchayats that include the following:

Besides those listed in Schedule I, every Gram Panchayat shall have the following specific powers:

1. **Social Justice:** To ensure the safety, security, freedom and rights of the SC/ST , all weaker sections, all adults and children residing in the vicinity of the village.

2. Health and Nutrition: Establishment and/or maintenance of Health Centres and Clinics in and to perform all the functions and implement programmes required with due attention to special categories such as the differently abled and senior citizens, including programmes for the development and empowerment of women and children at village level.

3. Education: Establishment and management of Government Anganwadis, Pre-Primary and Primary Schools, Ashram Schools and Hostels, Orphanages, Government Industrial Technical and Vocational Training Institutions and Education Centres and to perform all the attendant functions required such as the supply of text books, study materials and training inputs, recruitment of stop gap, part time, full time and honorary teachers; also the promotion of literacy and access to information through libraries with internet access.

4. Employment, Rural Industry and Poverty Alleviation: To develop and establish Home Stays, Tourist destinations, Khadi and Village Industries, Food Storage and Processing to create opportunities for self employment and the alleviation of poverty through rural enterprises and cooperative societies including the management of the Public Distribution System (PDS).

5. Savings and Credit: To monitor, promote and supervise Women's Self-help Groups at the village level to provide small business and other loans and promote savings.

6. Biodiversity, Social Forestry and Ecology: To preserve, protect and nurture the biodiversity and ecology of the area and plan for social forestry and the establishment and maintenance of multi village solid waste management plants.

7. Capacity Building: The Gram Panchayat shall ensure that a needs assessment of all the capacity building requirements are made for all the Gram Panchayat Elected Representatives, their families, Panchayat Functionaries, Ombudspersons and Standing and other committees as per the guidelines specified.

8. Trade: To promote trade of rural products, produce and livestock through fairs, melas, exhibitions and village level public markets and to perform all the attendant functions required.

9. Water and Electricity: To provide clean drinking water and power supply and establish the infrastructure required to ensure the same through procuring the necessary resources and technical assistance.

10. Public Works: To explore and identify low cost, indigenous, viable and sustainable technologies for construction of housing, schools and all public works for the use in Gram Panchayats and the planning, construction and maintenance of Gram Panchayat roads, lanes, footpaths, bus stands, bridges, culverts, drains; and the maintenance of boats, ferries and water ways .

11. Disaster Management: To ensure disaster preparedness in the village by learning from past disasters, assessing the risks and developing disaster protocols that include capacity building and resource availability such as medical and other requirements for all types of possible disasters and enlisting the cooperation and participation of the Taluk and Zilla Panchayats, NGOs and Experts in the relevant fields. The panchayat shall also have the power to commandeer vehicles, structures, buildings and personnel to address epidemics and disasters.

12. Social and Cultural Development: To promote, preserve and showcase traditional social and cultural art forms, sports, crafts, skills and practices especially those of the Scheduled Castes and Scheduled Tribes and backward communities at the village level that do not abuse the human dignity of any person or persons.

13. Knowledge Management: The Gram Panchayat shall consolidate, manage and maintain a data base of all relevant socio-economic information and a map of all natural and other resources and assets within the area. This shall be updated periodically to include the information obtained as a result of the surveys and PRAs conducted in every Gram Panchayat.

- **The Taluk Panchayats:**

Recognising that the Taluk Panchayats have very few functions to perform, yet are mandated by the 73rd Amendment and therefore cannot be eliminated, special attention was given to their role. Functions, especially those that link the three tiers of panchayats, have been assigned to the Taluk.

In the present structure there are few organic linkages between the three tiers of Panchayats. Though the entity that ties them all together is the Gram Sabha, the Taluk and The Zilla Panchayats have little or no contact with the Gram Sabhas. Moreover, the Gram Panchayat at present has no necessity to interact with the Taluk Panchayat and the planning process skips this tier completely going directly to the district Planning Committee [DPC] at the Zilla level.

In order to create some organic linkages, an intermediary level Taluk Planning and Development Committee [TPDC] has been created to facilitate a correlation between the three tiers of the Panchayats and enable Gram Panchayat Adhyakshas to participate in the planning process and protect the interests of the Gram Sabhas up to the Zilla level. The Taluk Panchayat is responsible for the functioning of the TPDC and also to place the Taluk level plans before the District Planning Committee [DPC].

An additional function that has been given to the Taluk Panchayat is the management of Rural Banking and Cooperative Societies with special reference to Rural Banks for Women at the Taluk level to provide loans for small business and other activities and promote savings.

- **The Zilla Panchayats:**

The role of the Zilla Panchayats have not changed much, except that now they are not seen as the apex of a hierarchy of panchayats, but as the facilitator of the Taluk and Gram Panchayats in

terms of providing expertise, technology and assistance as required by them with regard to knowhow, infrastructure and law and order.

- **Cluster Approach:**

To further the cooperation and collaboration between Panchayats of all three tiers, but especially between Gram Panchayats, the Committee has mooted the 'cluster approach'. For any development work that is common to more than one panchayat or infrastructure or institutions such as a high school, waste recycling plants, agricultural storage facilities or providing for special areas for the establishment of village and small scale agro based industries, more than one Gram Panchayat can come together and form Joint Committees to implement, manage and utilise the same.

The existing enabling provisions in the 1993 Act have been retained and a few added to give this concept more visibility and further facilitate collaboration.

- **Standing Committees and Working Groups:**

All the three tiers of Panchayats shall set up five standing committees as follows:

1. A General Standing Committee;
2. A Finance, Audit and Planning Committee;
3. A Social Justice Committee;
4. An Education and Health Committee; and
5. An Agriculture and Industries Committee

These Standing Committees are on par with Statutory Committees and will work as Expert Committees in their area of specialisation. These committees are meant to assist the panchayats to take decisions and design strategies based on reliable information, state of the art technology and traditional wisdom and information emanating from local and national surveys and census data. These Standing Committees will also invite and promote Community Participation and involvement.

They will encourage the synthesis of Traditional Knowledge and Scientific Systems and Technology. Traditional knowledge shall be respected, acknowledged and protected. These Committees will also document their work and update it periodically.

These Standing Committees shall be given the powers they need to discharge their duties and can make spot inspections whenever and wherever necessary.

- **Working Groups**

As the purview of the Standing Committees are fairly broad, Working Groups shall be set up for special concerns to assist the Standing Committees by studying issues in depth and engaging in consultations with affected groups of people.

Some examples are, increasing agricultural produce, the empowerment of the SC/ST, preventing violence against women, addressing child labour and preventing child marriage or any practice that denigrates the dignity of any individual or group.

These Working Groups shall also assist with perennial issues that require ongoing solutions and vigilance that could be regional specific such as the problem of:

- Elephants in Kodagu
- Floods in Karavalli
- Drought in Uttara Karnataka and the need to set up grain banks
- Grazing Lands in Bailu Seeme
- Night schools for working children

Besides co-opting experts, these Working Groups shall involve Senior Citizens to make use of their experience and expertise.

CHAPTER XIII

ADHYAKSHA AND UPADHYAKSHA

"A leader is best when people barely know he exists, when his work is done, his aim fulfilled, they will say: we did it ourselves."

- Lao Tzu

- **Adhyaksha and Upadhyakshya:**

In this scheme of things, the President is a fulltime Chief Executive head of the Panchayat. She/he is corresponding to a Chief Minister at their level, but with a major difference. She/he is elected by her/his 'cabinet' and not the other way around as in the case of Chief Ministers. She/he takes decisions through consensus of the body, but represents the interests of the Gram Sabhas and is ultimately accountable to it.

- **Powers:**

All staff, including the Chief Secretaries of the Panchayats of the respective tiers shall be accountable to the Adhyakshya and in his/her absence to the Upadhyakshya.

The Adhyakshas shall have access to an emergency discretionary fund that can be utilised for natural calamities, accidents and emergencies. However, this expenditure will have to be approved by the Panchayat concerned at the next meeting.

The Adhyakshas and Upadhyakshas have been provided with a Private Secretary and other amenities that will enable them to function as the Chief Executive heads of their Panchayats.

- **Salary:**

The Adhyakshas and Upadhyakshas of all the three tiers, who will serve a full 5 year term, have been empowered, their status has been raised and their powers increased.

The salary of the Adhyakshas and Upadhyakshas and that of the members shall be commensurate with their powers, duties and functions and this has been prescribed in the suggested amendments.

- **Capacity Building:**

Provisions have been made for the building of the capacity of the Adhyakshas and Upadhyakshas, their Private Secretaries and all the members. The Adhyakshas and Upadhyakshas and their Private Secretaries shall undergo a special orientation before they assume office on the expiry of the term of the previous body.

This capacity building will not only focus on the law, rules and procedures, but also build their confidence and enable them to develop a positive attitude towards governance and administration.

It will also help to develop the right 'mind-set' towards decentralisation, democratic devolution and Panchayat Raj and the obligation towards their constituency and the need to fulfil the requirements of their constituents.

- **Term:**

The term of the Adhyaksha and Upadhyakshya shall be for a full five years and they shall be elected by the members of their respective Panchayats.

Another allied means for the playing of 'musical chairs' with the seat of Adhyaksha is the passing of no-confidence motions and so the reasons and the procedure for passing no-confidence motions against the Adhyakshya and Upadhyakshya have been made more stringent and a time period has been imposed before a second no-confidence can be imposed.

The Adhyaksha, the Panchayat body and ultimately, the Gram Sabha, shall have control over the Panchayat area and all the resources within its limits. All decisions shall emerge from or be approved by the Gram Sabhas.

- **Accountability and the Right to Recall:**

To establish systems for the accountability of the elected representatives to their Ward Sabhas, procedures have been suggested in case of their failure to discharge their obligations and responsibilities and can result in the 'right to recall' or penalties if the Ward Sabha passes a resolution in this regard and complains to the prescribed authorities in the prescribed manner.

The process of elections has been made more stringent and transparent. The State Election Commission shall be entrusted with the responsibility of ensuring that elections are held as per schedule and that all violations of the election code and failure to discharge obligations as laid down in the Bill shall attract penalties as prescribed including the relinquishing of one's seat and a ban on standing for elections for a period. The State shall fund the election of all candidates and campaigning shall be monitored by the Commission.

The resignation of the Adhyakshya which has become a moot point has been dealt with through imposing conditionalities. Such resignations shall be accepted only for very impelling reasons such as mental or physical incapacity and disability.

Reasons and the procedure for passing no-confidence motions against the Adhyakshya and Upadhyakshya have been made more stringent and a time period has been imposed before a second no-confidence can be imposed. Further, the failure to discharge responsibilities can result in 'right to recall' or penalties.

Similar procedures have been suggested for all three tiers of panchayat.

- **Reservations:**

All reserved and unreserved seats shall be for two consecutive terms for all categories (10 years) to enable the empowerment of these categories of elected representatives.

Reservations shall be in proportion to the population of that particular category and the reservations for the Gram Panchayat shall follow the population ratio of the Taluk, the Taluk shall follow the ration of the Zilla and the Zilla the State.

When the reservations made in respect of the scheduled castes, the scheduled tribes and the backward classes consists of a single seat, the reservation shall be rotated alternatively between men and women.

CHAPTER XIV

FUNCTIONARIES

To deconstruct the existing bureaucratic skeleton and redesign it somewhat to fit the envisioned functions of the Panchayats, it was decided that all staff; present PR staff, devolved, deputed and contracted staff; shall come under the administration of the respective Panchayats and answerable to the Adhyaksha. Their salary, performance appraisals, transfers and promotions shall be decided by the respective panchayats to which they shall belong. The [village] Accountant [revenue] shall also be under the Panchayat to facilitate the Panchayat as a 'single window' clearing house for the needs of the constituents.

The Panchayat Development Officer, the Executive Officer and Chief Executive Officer shall be known as the Chief Secretaries of their respective panchayats and capacity building shall be mandatory to serve in a PRI. It is also suggested that a special cadre be set up for PRIs preparing officials to serve rural communities with the appropriate mind-set, knowledge and skills.

- **Karnataka Panchayat Raj Administrative Service (KPRAS):**

There shall be a separate cadre of service to be called the Karnataka Panchayat Raj Administrative Service consisting of the staff in all cadres of employment including the officers and other servants that constitute the human resource needs of the Panchayat Raj Institutions in the State.

- **Panchayat Staff Cadres:**

All the Panchayats in the three tiers shall have a uniform staff pattern consisting of:

1. Chief Secretaries, who shall function as the administrative heads of the respective Panchayat;
2. Other officers of the Government appointed to the Panchayat Raj institutions under the Karnataka Panchayat Raj Act, 1993 as are on the date of commencement of this Act working as such, who may be absorbed in to the Panchayat Administrative Service in accordance with the provisions of section 114; and
3. The staff of the Panchayat Administrative Services appointed directly, as hereinafter provided under this Act.

The Chief Executive Officer of a Zilla Panchayat, the Executive Officer of the Taluk Panchayat and the Panchayat Development Officer of a Gram Panchayat shall, from the date of commencement of the Amendment Act, carry the designations as Chief Secretaries of the concerned Panchayats in the respective tier.

- **Conditions of Service of Chief Secretaries:**

The Government shall appoint:

1. An officer of Group-A (Senior) cadres in the Government, not below the rank of a Deputy Commissioner for each Zilla Panchayat, to be the Chief Secretary, Zilla Panchayat

2. An officer of Group-A (Junior) cadres in the Government, not below the rank of an Assistant Commissioner for each Taluk Panchayat to be the Chief Secretary, Taluk Panchayat
3. An officer of the Group-B Cadres not below the rank of a Tahsildar for each Gram Panchayat to be The Chief Secretary, Gram Panchayat

The officers referred to sub-section (1) shall be posted to work on deputation on their own pay and allowances, for a term of three years extendable in deserving cases up to four years with no provision for a second term.

• **Functions, Powers and Duties of the Chief Secretaries:**

1. The Chief Secretaries of the respective Panchayats of all tiers shall be subject to the superintendence, guidance and control of the Adhyaksha of the respective Panchayats.
2. Exercise all the powers specially imposed or conferred upon him/her;
3. Overall supervision and control the officers and officials of the Panchayat subject to the general superintendence and control of the Adhyaksha;
4. Discharge all duties imposed and exercise all the powers conferred on him/her and perform such functions entrusted to him/her from time to time.
5. Supervise and control the execution of all work of the Panchayat;
6. Take necessary measures for the speedy execution of all work and developmental schemes of the Panchayat;
7. Have custody of all meeting papers and documents connected with the proceedings of the meetings of the Panchayat and its Committees;
8. Draw and disburse monies out of the Panchayat fund; and
9. Exercise such other powers and discharge such other functions as may be prescribed.

The Chief Secretary shall attend every meeting of the Panchayat and shall have right to attend the meeting of any Committee thereof and to take part in the discussion but shall not have right to move any resolution or to vote.

If in the opinion of the Chief Secretary any proposal or resolution or any order of the Panchayat or any Committee is in violation of or inconsistent with the provisions of this Act or the rules or is in derogation of the functions and powers of the Panchayat or its committees or of the Adhyaksha or, transgresses any financial regulation or budget provision it shall be the duty of the Chief Secretary to inform the Panchayat or the committee or the Adhyaksha in the form of a written note containing the reasons for his opinion and specifying the law, rule or other provision with which the proposal or resolution or order is inconsistent.

Provided that where such proposal or resolution or order has been considered and passed by the Panchayat or the committee or the Adhyaksha before such advice is tendered, the Chief Secretary may resubmit the proposal or resolution or order with his written note after such examination as he considers it necessary.

Gram Panchayat

The Chief Secretary of the Gram Panchayat shall have the following additional functions:

1. submit to the Grama Panchayat the monthly accounts of the Grama Panchayat before the tenth day of succeeding month;
2. furnish returns, statement of accounts and such other information when called for, by the Government or the auditor;
3. inspect or cause to be inspected the accounts of institutions under the control of the Grama Panchayat;
4. keep records of the Gram Panchayat. Standing committees, and other committees, Grama Sabha and Ward Sabha;
5. co-ordinate the preparation of the annual plan and five year plan so that the approved plan is submitted to the District Planning Committee in time;
6. disburse Grama Panchayat fund and plan fund to the officers concerned and furnish utilization certificate in the manner prescribed.

• **Absorption of Government Officers working in the Panchayats:**

Members of the staff of the Government working in Panchayat Raj Institutions in the State as on the date of commencement of this Act, as Executive Officers (non-KAS), Panchayat Development Officers, Accounts Officers, Planning Officers, Engineers and other Technical Administrative and Accounts Staff shall, subject to their willingness, be absorbed in the Panchayat Administrative Service on the same terms and conditions of service as applicable to them, and form part of the Panchayat Administrative Service.

Vacancies remaining in these cadres after absorption under sub-section (1) and arising later on account of death, retirement, resignation or removal shall be filled by recruitment to the Panchayat Administrative Service by promotion or otherwise by direct recruitment.

Provided that in making appointments under this section the Rules of Reservation in public employment as in force in the State shall be followed

Provided further that all appointments by direct recruitment shall be done by a Recruitment Committee appointed for the purpose in consultation with the State Public Service Commission.

• **Karnataka Panchayat Raj Administrative Services Board:**

There shall be established an independent Board to be called the Karnataka Panchayat Services Board for defining the policy governing the human resource and regulating administration and control of staff in the Panchayat Raj Institutions.

The Karnataka Panchayat Raj Administrative Services Board shall consist of a Chairman and as many members, being not less than three and not more than five, of whom at least one shall be a woman, one a person belonging to the Scheduled Castes and the Scheduled Tribes and one belonging to the backward classes.

The Board shall have power to co-opt one or two other members who are experts in the field of Rural Administration and Man Power Planning, as special invitees on the Board.

The Government shall, within six months of the commencement of this Act, set up the Board and specify the qualifications, term of office, salary and allowances and conditions of service of the Chairman and other members of the Board.

Functions of the Board:

The Board shall take an appraisal of the human resource needs of the Panchayat Raj institutions based on the Constitutional obligations placed on the local self-governments under Part IX and then:

- i. Compile information of all cadres, their strengths, vacant positions, anticipated future vacancies with time lines, job description, Recruitment Rules etc.
- ii. Determine the Cadres and Posts appropriate to the Panchayat services, both qualitatively and quantify staff requirements in each such cadre and post.
- iii. Define the qualifications for appointment and methods of recruitment to the various cadres keeping in view the existing set up of the Rural Development and Panchayat Raj Department and its field departments, their functions and staff out-lay
- iv. Make recommendations on rationalization/convergence of the various cadres to match the growing responsibilities of the Panchayat Raj Institutions,
- v. Suggest changes required in the various administrative Rules, Government Orders, notifications and circulars in force on the date of commencement of this Act for so as to enable a smooth pass over of the functions and functionaries on to the system of administration envisaged in this Act and
- vi. Prepare and issue Rules to be applicable to the Panchayat Administrative Services, covering Cadre and Recruitment, service regulations like Pay & Allowances, Leave, Transfers, Travelling Allowance, Misconduct and Domestic enquiry etc., on lines of the various Civil Service Rules in force in the State Government, or otherwise
- vii. Such Rules shall provide for the ratio of posts in Group-A and Group B (senior scale) to be filled,-
 - a. By posting of officers of All India Services cadres or the Karnataka Administrative Service and the allied services, respectively,
 - b. By promotion of staff of the Panchayat Raj Cadres working in the junior cadres, or
 - c. By deputation of officers of equivalent cadres from other line departments, in accordance with the rules of reservation in force in the State.

Provided that in order to ensure greater domain knowledge, the Rules for recruitment to these cadres shall provide expressly for appointment of persons from rural areas and having experience of working in and possessing aptitude for service in rural areas.

Regulation of Staff:

Till such time as the Service Rules for Panchayat Raj Administrative Service are framed the Rules of recruitment and conditions of service applicable to Government servants as in force on the date of commencement of this Act shall apply *mutatis mutandis* to the Staff of the Panchayat Administrative Service, until regular Cadre and Recruitment Rules and other allied Rules of service are framed separately for the Service in accordance with this Act.

Expenditure on Staff Salaries:

Expenditure on staff salaries including the Personal Staff of the Adhyakshas shall be met out of the Panchayat Funds of the concerned Panchayat, receivable in the form of Annual Establishment Grants from the Government.

On from the date of commencement of this Act, the Government shall devolve and transfer the funds required to meet the staff salaries under non-plan, along with the functionaries to be transferred and vested in the Panchayats.

Arrangement of Additional Technical staff for Gram Panchayat:

1. The Government may, wherever necessary, pool the officers and officials of the State Civil Service including engineering or technical staff and post them to one or more Gram Panchayats.
2. If there is shortage of officers or officials for such posting under these sub-cadres, the Gram Panchayat may in the exigencies of service engage the services of technical staff including engineers not belonging to State Civil Service for specific work, on terms and conditions as may be specified by the Government in this regard.
3. The officers and employees posted to a Gram Panchayat under sub-section (1) shall perform functions and discharge duties as if they are officers and employees of that Gram Panchayat and they shall attend to, in addition to their normal duties any other duty assigned to them by the Gram Panchayat subject to the guidelines, if any, issued by the Government.
4. The officers and employees posted to a Gram Panchayat under sub-section (2) shall execute works, discharge functions or perform duties involving implementation of any scheme, project or plan of the Government, not assigned to the Gram Panchayat under this Act or any other law.
5. The Government shall continue to pay the salary, allowances and other dues to officers and officials posted to the Gram Panchayat under sub-section

Separate Commissionerate/Directorate:

There shall be a separate **Commissionerate/Directorate** for Panchayat Raj to ensure effective administration like in other departments of Government.

CHAPTER XV

RESOURCE MANAGEMENT

“I have not pictured a poverty-stricken India containing ignorant millions. I have pictured to myself an India continually progressing along the lines best suited to her genius. I do not, however, picture it as a third-class or even a first-class copy of the dying civilization of the West. If my dream is fulfilled, and every one of the seven lakhs of villages becomes a well-living republic in which there are no illiterates, in which no one is idle for want of work, in which everyone is usefully occupied and has nourishing food, well-ventilated dwellings, and sufficient Khadi for covering the body, and in which all the villagers know and observe the laws of hygiene and sanitation such a State must have varied and increasing needs, which it must supply unless it would stagnate.”

-Mahatma Gandhi

Financial devolution is the fundamental pivot around which devolution revolves. The devolution of powers and functions to panchayats will become a reality only when **all** funds have been devolved and the panchayats have control to utilise these funds according to the needs of their constituencies and as per the plans developed by Gram Sabhas.

The State shall devolve a minimum of 30% of State budget and 50% of that shall be untied. The devolution of funds for GPs will be ‘need based’ determined by Development Bench Marks and not uniformly allocated irrespective of their size, backwardness, geographical conditions or extent of agricultural activity. Instead, the Priority Ranking Matrix shall determine the quantum of funds for each Panchayat.

- **Separate Gram Sabhas:**

Separate Gram Sabhas have been provided for by the Government for SC/ST, Children and Women and other special groups.

This concept has been further strengthened in this Bill. Separate Gram Sabhas shall be convened for finalising plans and programmes for the empowerment of the Scheduled Castes and the Scheduled Tribes, Women and the Children, to discuss issues related to each of them separately, at least once in a year, before the Meetings of the Gram Panchayat.

Special Meetings of the Gram Sabha shall be convened whenever a request is made by not less than ten percent of the members of the Gram Sabha specifying the subject for discussion in such request, however there shall be an interval of at least three months between any two Special Meetings.

The budget allocated for the SC/ST shall be decided at the separate Gram Sabha held for them. Similarly, budget allocations shall be made for children and women based on their needs and the plans they formulate in their Gram Sabhas.

- **State Finance Commission:**

A State Finance Commission shall be constituted once in five years and the State Government shall table the recommendations in the Legislature as soon as it is presented to the Governor and follow the fund disbursement formula recommended by the Commission as per Article 243 (I) of the Constitution.

- **Streamlined Disbursal of Funds:**

The Committee felt strongly that all funds, grants and financial assistance for all schemes shall be paid directly into a Panchayat Fund in the name of the said Panchayat straight into the respective Panchayat Bank Account that shall be opened in a Cooperative Bank if available or in any Commercial Bank.

The State Government shall disburse funds directly to each Panchayat, once the conditions prescribed by the State government are met.

The obligations of the State shall be to set aside not less than 30% of State Budget as per the existing convention for PRIs. Of that not less than 50% shall be in the form of Untied Funds [Excluding Salary and Administrative Costs]. The Formula for deciding the quantum of Grants for each Panchayat shall be based on the formula suggested by the 3rd Finance Commission. The transfer of funds shall be commensurate with the transfer of functions and responsibilities.

The grant shall also be directed towards outputs and outcomes. For this purpose, the State Government shall set up an expenditure information network as a grant release, monitoring and accounting system for the funds disbursed by the State Government to the Panchayats.

Allocations to Panchayats shall comprise of 'Devolution' of funds in the form of block grants over which the Panchayats have flexibility in planning and expenditure, and 'Entrusted' or 'transferred' schemes, where the Panchayats function as agencies of the State in implementation and are subject to the conditions as imposed by the State.

- **Resource Allocations:**

The **Budget** prepared by each Panchayats in each of the three tiers shall follow **Budget Heads** that correspond to the Panchayat activity enumerated in Schedules I, II and III. The Government shall make a grant to every Gram, Taluk and Zilla Panchayat to cover the expenses of their establishment at such scale as may be determined by the Panchayats. The Government may also make discretionary grants to the Gram, Taluk and Zilla Panchayats for such purposes and on such terms and conditions as may be decided by it.

The Government shall make annually a grant to each Panchayats in each of the three tiers of such amount, allocated by the Government as per the recommendations of the State Finance

Commission as the case may be, and as is necessary for a Panchayat to fulfil the requirements of its Annual Plan.

The annual grant shall also be based on the Priority Ranking Matrix of prioritising beneficiaries, schemes, programmes and plans that takes into consideration and gives due weight to geographical area, population, backwardness, urgency of need, level of impact and coverage.

The Government shall make an establishment grant to every Panchayat, each year in such measure as is adequate to cover the expenses of:

- i. payment of salaries of all staff including devolved and deputed staff;
- ii. payment of honorarium to members;
- iii. payment of salaries and allowances to the Adhyaksha and Upadhyaksha;
- iv. the cost of the establishment that include the electricity charges for street lights, and drinking water.

The Government shall also make discretionary grants to the Panchayats for any specified purpose of rural development, empowerment or capacity building and on such terms and conditions as may be determined by it for meeting the purpose effectively.

- **Transparency in Fiscal Allocations by the State Government:**

Financial allocations to Panchayats shall be made in a transparent manner by annexing to the annual financial statement, a statement indicating the allocations made to each Zilla, Taluk and Gram Panchayat under the various budget heads detailed in the Activity Map in the formats prescribed.

Flexibility needs to be built in, budgets for schemes cannot be predetermined and made uniform – ‘the one size fits all’ theory has proved defective. Therefore, total devolution has been prescribed, with funds deposited directly into panchayat accounts. Further, budget heads will follow the sections in the Responsibility Map and panchayats shall have the flexibility to incur expenditure within a budget head from one cost centre to another.

Funds allotted for ‘Social Justice’ shall not be transferred to any other budget head under any circumstance.

The State shall not make any **unilateral cuts at source** from the funds devolved to Panchayats.

- **Resource Building**

Panchayats may acquire, hold and dispose of property both movable and immovable whether within or without the limits of the area of the Panchayat, to lease, sell or otherwise transfer which may have become vested in or been acquired by it.

The Government, with the concurrence of the Panchayat may transfer any property vesting in the Government to the Panchayat, and all work constructed by a Panchayat out of the Panchayat fund shall vest in such Panchayat.

- **Resources Mobilisation:**

Several measures have been included to ensure that the revenue of Gram Panchayats is increased including the revision of fees, levies and taxes to be in keeping with current market rates.

Other sources of revenue for Panchayats shall be from the resources in a Panchayat area such as a revenue share from the Cashew Board, Forest and Woods, Houses Constructed, Housing Schemes, Revenue from Tax and Cess in a Gram Panchayat, the Corporate Social Responsibility Fund from Corporate Companies and Industries and the exploitation of Natural Resources. There shall be a formula for Revenue Sharing in the ratio of 50:30:20 for Gram, Taluk and Zilla respectively.

Another source would be the Enterprise run by a Gram Panchayat such as Gas Agencies, Fair Price Depots, Gas Stations, production and the sale of Power and Non Conventional Energy and the provision of Skill Development.

- **Taxation:**

The fiscal life blood of any government is Taxation and the Gram Panchayat has the power to levy tax, cess and rental charges and have administrative control over all recourses within the Panchayat Area. However, the PRIs, especially the Gram Panchayats have been caught in a time warp with rates that were fixed more than 20 years ago and if collected will not pay for even the wages of the Bill Collector.

It has now been recommended that Schedule IV be amended in such a manner that it is revised each year to keep up with times and allow for Panchayats to fix and collect taxes that are relevant to the present market value of such properties.

- **General Provisions:**

There shall be a budget meeting in October of every year when the Gram Panchayats shall examine the consolidated plans and budgets before they are accepted. These plans shall be sent to the TPDC by December of every year.

To ensure transparency the Auditor General shall audit all the accounts of all schemes and programmes implemented in a Panchayat and Jama Bandi shall be conducted for all programmes and schemes and this shall be presented to the Gram Panchayats in April of every year.

Lastly the KUIDFC, ADB and NABARD shall be encouraged to provide direct funding to PRIs.

CHAPTER XVI

INCLUSIVE PEOPLES PLANNING AND REPORTING

“By its nature, the Gram Panchayat ensures participation of the people and can be the focal point of micro level planning - all functionaries of different department and agencies being supervised and controlled and activities of voluntary and non – government organisation being coordinated by it..”

- L. C. Jain

- **Inclusive Participatory Planning and Development:**

The crux to inclusive participatory planning is a bottom up process that includes all inhabitants and reflects their aspirations and results in inclusive development and inclusive equitable growth.

Panchayats as institutions of self-government need to achieve all-round development coupled with social justice, empowered by total and simultaneous devolution of functions functionaries and funds to them. To ensure that development shall be planned from the grassroots level upwards to assess, determine and prioritise the needs of all sections of the people with emphasis on the interests of the vulnerable sections.

To ensure this the Committee has made it mandatory that each Gram Panchayat enables a process of people’s planning through “Participatory Rural Appraisal” or PRA’s, a process that has been in operation for many years and proved to be extremely effective. This shall be the basis of all planning together with survey and census data.

Participatory Rural Appraisal is a process of learning from, with and by rural people, to enable local communities to gather information about their village and conduct their own analysis in order to plan and implement initiatives together with their elected representatives and government officials. It enables communities to strengthen their capacity to plan, make decisions, and take action towards improving their own situation through their active and informed participation in the management of development projects and programmes.

This process will be carried out at least once in five years but each new Gram Panchayat body along with a survey and collection of demographic census data that will begin at the level of each Habitation involving all inhabitants irrespective of age or gender. From this will be drawn a Vision Plan that is forward looking and an Annual Plan that uses development bench marks that are established by local, state and central governments for measuring outcomes.

All these plans will be consolidated by the Gram Panchayats using a Priority Ranking Matrix that will ensure that priority is given to vulnerability, backwardness, urgency of need, coverage and

feasibility. These consolidated plans will then be presented back to the Gram Sabhas for their approval.

- **Indicators and Benchmarks:**

Development bench marks that are established by local, state and central governments for measuring outcomes and indicators so identified for measuring progress and implementation will be set and used for monitoring and evaluation the implementation of plans, projects and schemes.

Other prevailing indices can also be used, such as:

The “Human Development Index” which is a statistical tool used to measure a country's overall achievement in its social and economic dimensions. The social and economic dimensions of a country are based on the health of people, their level of education attainment and their standard of living.

The “Performance Management System” that is a scientifically based, data-oriented management system. It consists of three primary elements-measurement, feedback and positive reinforcement. It includes activities which ensure that goals are consistently being met in an effective and efficient manner through a process of aligning resources, systems and employees to achieve strategic objectives and priorities. [Shift to concerned Chapter]

The “Social Infrastructure Index” that tracks community facilities, services and networks that help individuals, families, groups and communities meet their social needs, maximise their potential for development, and enhance community wellbeing. Social infrastructure includes: universally accessible facilities and services such as education, training, health, welfare, social services, open space, recreation and sport, safety and emergency services, learning, religious, arts and cultural facilities, civic and democratic institutions, and community meeting places; lifecycle-targeted facilities and services, such as those for children, young people and senior citizens e.g. early childhood centres and retirement villages; and targeted facilities and services for groups with special needs, such as families, people with disabilities, and people from culturally diverse backgrounds.

Vision Plan:

Every newly elected Gram Panchayat shall, within three months of assuming office enable the members of the Habitation and Gram Sabhas to carry out a Participatory Rural Appraisal that maps the resources, population and needs of its area.

Gram Panchayat shall prepare a forward looking Vision Plan for the whole term of the Panchayat based on development benchmarks established by local, State and Central Governments to set targets and develop outcome indicators for measuring them using Performance Management Systems.

Panchayat selected from among the Chairpersons of all the Standing Committees of the Taluk Panchayat, by lot

- d. One Adhyaksha from the Gram Panchayats situated within each of the Zilla Panchayats in the Taluk
 - e. One-fifth of the Adhyakshas of the Grama Panchayats in the Taluk of whom at least one shall be a woman and one a person from the Scheduled Castes or the Scheduled Tribes by rotation for a period of one year as the Adhyaksha of the Taluk Panchayat may determine by lot
 - f. Provided that an Adhyaksha who was a member under this clause for one term shall not be eligible to become member for a second term during the remainder of his term of office as Adhyaksha.
 - g. Two members nominated from among all the Members of the Taluk Panchayat of whom at least one shall be a woman
 - h. Two members nominated from among its members of the Urban Local Governments of whom at least one shall be a woman
5. Special Invitees
- a. One Representative of the local Agricultural Produce Marketing Committee nominated by the President
 - b. One Representative of the PCARD Bank nominated by the President
 - c. One Representative of the Taluk Agricultural Produce Cooperative Marketing Society nominated by the President
 - d. One representative from the District Lead Bank nominated by the local Head of the Bank
 - e. Three Experts, one from the industry and service sector, one from rural development and one from among social scientists, who are eminent persons in their field

Among the nominated Representatives at least one Representative from the Taluk Panchayat and one Representative from the Urban Local Government shall be women, and among others one shall be a person belonging to the Scheduled Castes and the Scheduled Tribes and at least one belonging to the backward class minority groups

There shall be one 'Budget Session' or budget meeting in December of each year to approve and present the Consolidated Annual Plans and Budgets and one Review Session or meeting in April each year that will examine the Audits of the AG and the Jama Bandi of all plans, projects and schemes.

- **The Planning Process:**

The Taluk Planning and Development Committee shall receive the Annual Plans presented by all the Gram Panchayats and the Urban Local Governments and consolidate them sector-wise identifying the priorities of each sector at the Taluk level.

The process of integration and consolidation of the plans at this intermediary level shall be achieved by prioritising issues following the Priority Mapping method. The Taluk Planning and Development Committee is not authorised to change, modify or alter the demands or priorities indicated in the plans of the Gram Panchayats or Urban Local Governments as the case may be.

Planning at the intermediate level shall be the result of consolidation with the object of identifying the priorities of each individual unit of self-government that shall involve:

1. Spatial integration, meaning integration of schemes that run through one or more local authorities.
2. Sectoral integration, which integrates several schemes relating to a larger sector.
3. Cross-sectoral integration, aimed to ensure maximum impact from different interventions, by drawing resources from various schemes.
4. Vertical integration, which separates out what has to be done at higher Panchayat levels, which have the advantage of scale, and which cannot be done by the lower tiers of local government.
5. Integration of resources, which looks at identifying and planning the channelization of several schemes both Centrally sponsored and State sponsored, which Panchayats can utilise, integrate into local plans and to which they can contribute additional resources.

- **Prioritising the Areas for Consolidation:**

While prioritising the areas for consolidation, possible commonalities shall be identified in the functional responsibilities of the Panchayats and the Municipalities in the rural-sectoral and urban-spatial plans. The following are some of the areas of priority:

1. Highway and transport linkages to maximise connectivity;
2. Water resources planning, which would cover issues of sharing of resources, rights over resources, distribution responsibilities, user charges, planning for growth and addressing environmental impact;
3. Protection of rural water bodies and agricultural land from urban sewage and toxic waste;
4. Waste disposal, land fill locations and their management and drainage;
5. Land use zoning in rural areas for growth of urban areas, industrial allocations, acquisitions, SEZ allocations, protection of multi-crop land and ecologically vulnerable areas;
6. Environment protection of lakes, tanks, wetlands, forest areas, agricultural land, flora and fauna.

• **Method of Identification of Priority Areas:**

Identification of areas of priority for consolidation should focus on the needs of the urban and rural local government structures with special reference to the Habitation and Gram Sabhas and the processes should address:

- a. Information on present position and future goals, based on pre-defined benchmarks;
- b. How the goals are to be achieved, and
- c. How the plans should be operationalised through:
 - i. Prioritisation of each sector sub-component;
 - ii. Matching goals with resources available, personnel, expertise, etc;
 - iii. Who does what, in planning and implementation;
 - iv. Sources of funds and manpower; and
 - v. How activities/assets will be maintained and sustained.

The Taluk Planning and Development Committee shall forward the completed Taluk Development Plan to the District Planning Committee.

• **Zilla Panchayat Plan:**

The Zilla Panchayats shall be responsible for preparing the Draft Plan of the Zilla Panchayat for the District and consolidate the plans of the all Taluk Panchayats in the District and place them before the District Planning Committee.

• **District Planning Committee:**

Every district shall establish a District Planning Committee to consolidate the plans prepared by the Panchayats and urban bodies in the district to prepare the District Development Plan.

The District Planning Committee shall consist of:

1. Chairperson The Adhyaksha of the Zilla Panchayat
2. Vice-Chairperson The Mayor or President of the Municipal Corporation or the Municipal Council, as the case may be, having jurisdiction over the headquarters of the District.
3. Members
 - a. Members of the House of People who represent the whole or a part of the district;
 - b. Members of the Council of States who are registered as electors in the district;
 - c. Members of the Council of States who represent Local Bodies of that district;
 - d. The Adhyaksha of the Zilla Panchayat;
 - e. Mayor of the Municipal Corporation or, as the case may be, the President of the Municipal Council having jurisdiction over the head quarters of the district;
 - f. Such number of persons being not less than four-fifth of the total number of members of the Committee as may be specified by the Government elected in the prescribed manner from

amongst the members of the Panchayat bodies and the urban local bodies in the district, in proportion to the ratio between the ratio of the population of the rural areas and of the urban areas in the district.

Provided that at least one among them shall be woman and one a person belonging to the Scheduled Castes and the Scheduled Tribes.

- g. All the Members of the State Legislative Assembly and of the State Legislative Council whose constituencies lie within the district;
- h. The members of the State Legislative Council representing the local bodies who are registered as electors in the district, and
- i. The Deputy Commissioner of the District, who shall be permanent invitees of the committee.

4. Member Secretary The Chief Secretary, Zilla Panchayat

Provided that The Taluk Panchayat President, who is the ex-officio Chairperson of TPDC along with the Vice-Chairperson of the TPDC (elected from the Gram Panchayats of the Taluk) shall be the two ex-officio members in the DPC from each Taluk in the District.

- **District Development Plan:**

The District Planning Committee shall prepare the draft development plan with regard to:

1. The matters of common interest between the Panchayats, and Urban Local Authorities in the district, including spatial planning, sharing of water and other physical and natural resource, the integrated development of infrastructure and environmental conservation; and
2. The extent and type of available resources whether financial or otherwise.

The District Planning Exercise shall link the plans of Panchayats and Urban Local Bodies and other planning units to provide for mutual consultation and negotiations between them and also provide the framework for integrating the sectoral and spatial aspects of urban and rural plans.

The process of consolidation and integration by the District Planning Committee shall not alter the plans prepared by the Taluk Planning and Development Committee.

Soon after the process of consolidation and integration is completed, the District Planning Committee shall forward the Consolidated Plan of the District to the **Karnataka State Decentralised Planning and Development Board** for integration into the State Plan.

- **Sector-wise Consolidation Committees:**

The District Planning Committee may constitute as many Sector-wise Consolidation Committees

4. Sixteen ex-officio Members consisting of
 - i. Four Chairpersons of District Planning Committees one from each revenue division
 - ii. Four Chairpersons of the Taluk Planning and Development Boards one from each revenue division
 - iii. Four Chairpersons of the Gram Panchayats one representing each revenue division
 - iv. Four Chairpersons of Urban Local Bodies one representing the City Corporations, one representing the City Municipal Councils, one representing Town Panchayats and one representing the Town Municipalities

Provided that of the sixteen members listed in 4 at least one shall be a woman, one a representative of the Scheduled Castes, one a representative of the Scheduled Tribes and one a representative of the other backward classes including minority groups.

5. Ten persons who are experts, one each from the fields of Agriculture and allied activities, Industry, Rural and Urban Development, Gender subjects (who shall be a woman), Child Rights, who shall be a child rights activist, Finance, Town and Country Planning and Environment and Water Conservation

Member
Secretary

The Principal Secretary, Planning

The functions of the Karnataka State Decentralised Planning & Development Board shall be as follows:

1. The Karnataka State Decentralised Planning and Development Board (KSDPDB) shall link the plans of districts and other planning units to provide for mutual consultation and negotiations between them and also provide the framework for integrating the sectoral and spatial aspects of urban and rural plans.
2. The process of consolidation and integration by the KSDPDB shall not alter the plans prepared by the districts.
3. The Board may, while preparing the consolidated plan, consult such institutions and organisations as the Governor may, by order, specify.
4. Soon after the process of consolidation and integration is completed, the Board shall forward the Consolidated Plan to the Planning department of the State for integration into the State Plan.
5. The Board shall also look after formulation of policy matters related to local development and regional development, co-ordination of District and State plans and designing policies to strengthen local bodies.

- **Action Taken Report:**

Once in six months an Action Taken Report of progress against plans shall be prepared by each tier of the Panchayats stating resource availability, implementation or reasons for inability to implement projects/schemes stated in the Annual Plan against set targets and using the outcome indicators for measuring them.

These reports shall include case studies or examples of very successful implementation and also hurdles and difficulties or obstacles that may have come in the way of implementation and these shall be compiled as lessons learnt.

The Gram Panchayats shall submit their reports to the Taluk Panchayat; The Taluk shall consolidate the reports of the Gram Panchayats and include their own report and present this to the Zilla Panchayat; and the Zilla Panchayats shall consolidate the reports of the Taluk Panchayats and include their own report and present this to the State Government.

The report of the Gram Panchayats shall be presented to the Gram Sabha at their next meeting. Similarly, the reports of the Taluk and Zilla Panchayats shall be made available to the Gram Panchayats for presentation to the Gram Sabhas.

The person or persons responsible for non implementation of projects and/or schemes shall be dealt with in accordance with the provisions of this Act.

- **Devolution of the 3Fs:**

The foundation of our enactment was the devolution of the 3Fs [functions, functionaries and funds]. Besides the 29 subjects listed in the 11th Schedule of the Constitution, we also looked at areas that the State Government could 'entrust' to PRIs and also subjects that PRIs could assume.

In this process of devolution we transferred whole institutions to PRIs of appropriate tiers maintaining the primacy of the Gram Sabhas applying the principle of Subsidiary, no tier should be entrusted with a responsibility that a tier closer to the Gram Sabha can carry out. This included responsibilities that the Gram Sabha could do themselves and includes what individual households should take responsibility for.

- **Responsibility Mapping to produce a Responsibility Map:**

An exercise of Responsibility Mapping was undertaken to arrive at a Responsibility Map [Functions] that begins with the Gram Sabhas and goes on to Gram, Taluk and Zilla Panchayats. Functionaries shall be appropriately devolved according to the functions each tier has to perform and the Staff pattern shall follow the functionaries designated by the Responsibility Map.

Funds shall also be devolved accordingly with the Budget Heads corresponding to functions listed in the Responsibility Map with flexibility within each budget head.

The Schedules corresponding to Gram Sabhas, Gram, Taluk, Zilla Panchayats [Schedules I, II, III and IV] were derived from the Responsibility Map.

- **Knowledge Management:**

The Committee stresses the importance of Knowledge Management at the level of the Gram Panchayat and all other tiers of Gram Swaraj. Information is power and plans designed on information are appropriate, successful and viable. For this purpose, 'Knowledge Banks' have been suggested for all Panchayats. It will contain Data and Information collected on a variety of issues including the results of surveys and PRAs and Demographic Census Data [Caste, Gender, Vocation etc:], history of the village, plans, budget , AG's Audits and Jama Bandi and the outcome of Social Audits. It will also document traditional skills and production methods, festivals and folk art.

There will be Maps drawn of every Village and displayed in a public place marking the natural resources, habitations, amenities and other important information. This map will also mark progress that has been made every quarter.

This Data Bank will be accessible to the public at the Panchayat Office and on line.

CHAPTER XVII

TRANSPARENCY AND ACCOUNTABILITY

“When Panchayat Raj is established, public opinion will do what violence can never do. The present power of the zamindars, the capitalists and the rajas can hold sway so long as the common people do not realize their own strength. If the people non-co-operate with the evil of zamindari or capitalism, it must die of inanition. In Panchayat Raj, only the Panchayat will be obeyed and the Panchayat can only work through the law of their making.”

- Mahatma Gandhi

Authority carries responsibility; and authority sans accountability and transparency can be both dangerous and destructive, discrediting the very institutions that were intended to ensure it.

The Committee felt that measures to ensure this had to be put in place without resulting in the ‘policing’ of PRIs nor creating a vertical hierarchical system of ‘big brother is watching’, yet reinforces the power of social audits by civil society through the right to information and mechanisms that are built-in to the day to day procedures of governance.

Some of the provisions that have been made are:

• **Transparency and Accountability**

1. The Adhyaksha, Upadhyaksha or other person presiding over a Meeting of a Zilla Panchayat, Taluk Panchayat or a Gram Panchayat shall:
 - a. Have the proceedings of the meetings of the Panchayat over which she/he presides, video-graphed and kept on record for public inspection.
 - b. Keep an abstract of the subjects and the resolutions passed at each Meeting and also keep the Resolution Book open for inspection by any citizen of that Panchayat and make available extracts of any part to any person applying for such, within three days.
2. It shall be the duty of every Adhyaksha or Upadhyaksha to video record the execution and progress of every scheme and the work undertaken by the Panchayat.
3. Every Panchayat shall set up a web site of its own with the particulars of plans and estimates of all work undertaken by the Panchayat, before they are taken up for execution, as also the phases of execution of all work and the video-taped versions of the recordings shall be uploaded and displayed on the Panchayat web-site within 72 hours of the recording.
4. An Adhyaksha, Upadhyaksha or Member of a Panchayat found negligent, indifferent or dishonest in the discharge of his/her functions, duties and responsibilities in relation to the execution of any scheme, work or project shall besides being liable for action in law, be

accountable to the public and liable to make good for the loss of benefit due to the target beneficiaries in such manner as may be prescribed.

5. All licences issued, permits granted, contracts awarded etc., shall be listed and entered in a book and the related records kept open for inspection by the public; copies of any record shall be supplied to any person making an application for it.
6. The Grama, Taluk or Zilla Panchayat, subject to the previous sanction of the Government can discontinue the service of any officer or servant who, in its opinion, is not necessary or suitable to the requirements of the said Panchayat after giving notice as required by the terms of his/her employment and every officer or servant whose services are discontinued, shall be entitled to leave, pension, provident fund and gratuity as she/he would have been entitled to take or receive on her/his resignation or retirement.

Associations of Adhyakshas

Organisations or Associations of Adhyakshas of the Gram, Taluk and Zilla Panchayats and a combined Association at the State level shall be promoted for safeguarding the interests of Panchayat Raj Institutions in general and to resolve conflicts of jurisdiction between Panchayats, through coordination and conciliation.

The Associations of Adhyakshas shall regulate their affairs in such manner as is provided in the Memorandum of Association and the Rules and By-laws of the Associations at each tier of operation.

• State Ombudsperson:

Grave complaints such as embezzlement, misappropriation and overstepping the boundaries of mandated powers against Panchayats, elected members and officials of Panchayats shall be investigated and decided by the Panchayat Ombudsmen set up under section 296-A and in the manner provided under sections 296-B to 296-E.

The Standing Committees, especially the one for Social Justice, assisted by special working groups on each topic, have been given both the duties and powers to attempt conciliation and if need be refer these issues to the appropriate authority.

The powers of the Chief Executive Officer have been revoked in this regard as it was felt that officers and the administration should not sit in judgement of Elected Representatives or Elected Governments.

• District Panchayat Tribunals:

The Government shall also set up a Tribunal in each District to be called the District Panchayat Tribunal for hearing disputes:

- a. Between Citizens and the Panchayat and *Vice-Versa*, and
- b. Among and between Panchayats

The Tribunal shall be Chaired by a retired District Judge, or a retired Judge of the Karnataka Judicial Service who was qualified to be a District Judge, or an Advocate who is qualified to be appointed as District Judge.

Two members who are well versed in Panchayat Raj Administration may be co-opted to be on the Tribunal of whom one shall be a woman and one a person belonging to the Scheduled Castes or the Scheduled Tribes.

The Chairperson and the member shall be entitled to an honorarium.

The Tribunal shall have the powers of a Civil Court to summon parties or witnesses to appear before it and also summon requisite records from an office of the Government to ascertain facts relevant in the hearing of the cases before it.

They shall hold sittings in the Taluk from which the complaint has emanated. Disputes shall be raised within 30 days; however, the Tribunal may entertain complaints made beyond the period if there is sufficient cause.

A decision shall be given within 60 days.

The decision of the Tribunal shall be final.

- **Penalty for Acts in Contravention of the Provisions of the Act and Rules:**

Any person or persons who contravenes the provisions of this Act or of any of the Rules made in this connection, or obstructs, induces or causes an Adhyaksha, Upadhyaksha or any member of a Panchayat or any officer to act in transgression of such provisions shall be punishable with simple imprisonment which may extend to a term of six months or a fine which may extend to five thousand rupees, or both and in every case of second or subsequent offence with imprisonment which extend to one year or fine which may extend to ten thousand rupees, or both.

- **Accountability**

To ensure accountability of the Elected Representative to his/her constituency with respect to fulfilling his/her duties and obligation and carrying out the functions as detailed in the Schedules, was a more complex question and the Committee felt that the Ward Sabha shall be one of the accountability mechanisms to ensure the accountability of the elected representative of the Gram Sabha to his/her Ward or constituents.

Failure to discharge responsibilities can result in the Right to Recall and/or Penalties based on a complaint filed by members of the Ward Sabha that can result in the loss of his/her seat or other penalties. Similar mechanisms may be thought off for other ties, namely the Taluk and Zilla Panchayats.

We have also invoked some of the provisions of Sakala pertaining to Functionaries in our enactment. We feel that the use of the Right to Information Act should be promoted and publicised and simplified for the use of rural inhabitants.

Other accountability mechanisms such as the Ward Sabhas, public display of all beneficiaries, contracts, and programmes and social audit mechanisms are also included. Some aspects of Sakala have been included for tracking the performance of functionaries.

CHAPTER XVIII

PANCHAYAT ELECTIONS

“Elections determine who is in power, but they do not determine how power is used.”

- [Paul Collier](#)

Author of [‘The Bottom Billion: Why the Poorest Countries Are Failing and What Can Be Done About It’](#)

The need for transparency and systems that give little or no scope for the influence of vested interests, bribing and corruption, is vital to enabling ‘good’ and ‘honest’ candidates to participate in the elections of Panchayats.

For this reason and other reasons stated before, there will be no direct elections for the Adhyakshya and Upadhyakshya and no political influence in the Gram Panchayat Elections. Shri M. Y. Ghorpade wanted political influence to be gradually phased out of all tiers and that should be our ultimate goal.

Constituencies shall be single member constituencies. Though we have not provided for the ‘Right to Recall’ we have stringent accountability mechanisms that if violated can result in the Adhyakshya and/or Upadhyakshya losing their seat. Misconducts include the **‘failure to discharge ones duties and obligations’** and shall attract the strictest of penalties and can also lead to the disqualification of members.

• **State Election Commission:**

A State Election Commission consisting of a State Election Commissioner shall be appointed by the Governor and the power of delimitation of territorial constituencies and enforcement of the code of conduct in respect such elections, shall be vested in the State Election consisting of the State Election Commissioner and two other Members of whom at least one shall be a woman and one a person from the Scheduled Castes or the Scheduled Tribes, to be appointed by the Governor.

The Governor shall prescribe the financial powers of the State Election Commissioner and allocate funds commensurate with the functions and responsibilities, for incurring establishment and election related expenditure, ensuring flexibility for getting procurements needed for conduct of elections and also freedom to divert funds between different heads of account.

The State Election Commission shall determine shall be provided with staff limited to Group D and the rest shall be on deputation and to ensure greater domain knowledge the permanent staff of the Commission shall be given in sufficient numbers based on the request of the Commission. Further that the State Election Commissioner may draft employees of State Undertakings in the Public Sector for conducting elections to Panchayats and to debar any class

of public servants including the local police from being employed in election duties relating to Panchayats.

State authorities as specified shall, when so requested by the State Election Commissioner make available to any Returning Officer such staff as may be necessary for the performance of any duties in connection with an election

- **Schedule of Elections:**

The State Election Commission shall complete the election process before the expiry of the term of the panchayat and shall announce the Reservation of Seats and the Schedule of Elections, not less than forty five days before the issuance of notification of Calendar of Events.

- **Election Calendar:**

As soon as the notification calling upon a constituency to elect a member is issued the State Election Commission shall, by notification in the Official Gazette, notify:

1. The last date for making nominations shall be the third day after the date of publication of the first mentioned notification, or if that day is a public holiday, the next succeeding day which is not a public holiday.
2. The date for the scrutiny of nominations, which shall be the day immediately following the last day for filing nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday.
3. The last date for the withdrawal of nominations, which shall be the second day after the date of scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday.
4. The date or the dates on which a poll shall, if necessary, be taken or the first of which shall be a date not earlier than in the case of Gram Panchayat the fifth day, and in case of Taluk Panchayat and Zilla Panchayat the seventh day, after the last date for the withdrawal of candidatures.
5. The date before which the election shall be completed.
6. The process of election of members to the Panchayats shall be concluded within ten working days of the issue of the Notification of election.
7. Candidates shall be allowed limited canvassing and distribution of pamphlets as part of their election campaign.

- **Preventing Corrupt Practices During Elections:**

With a view to preventing corrupt practices like bribery and undue influence during elections, the State Election Commission shall order the following steps, namely:

1. The Code of Conduct to be in force from the date of notification of election to the date of declaration of results.
2. Returning Officers at the polling booths shall ensure video-graphic recording of the proceedings of the election at each polling station.

3. All liquor shops and liquor manufacturing units within the Panchayat area where the code of conduct is in force shall be completely closed over the entire period of the code.

The owners, occupiers and the managers as the case may be of the liquor shops and liquor manufacturing units shall seal their units over the period the code of conduct is in force and deposit the seal and the keys with the Deputy Commissioner or the jurisdictional Executive Magistrate.

Anybody found in possession of liquor or creating public nuisance after consuming liquor during the ban shall be kept in preventive custody till completion of the polling date.

4. Violations of the code during the period shall amount to offences, cognisable and non-bailable and be punishable with fine and imprisonment as by law provided.

• **Election Campaign Expenditure:**

The State Election Commission shall arrange campaign meetings for candidates contesting Panchayat elections at the headquarters of the Gram Panchayats to which the candidate belongs at State cost on such a scale as may be determined differently for the elections to the Taluk Panchayats and the Zilla Panchayats.

CHAPTER XIX

SOCIAL JUSTICE AND DISPUTE RESOLUTION

"So long as you do not achieve social liberty, whatever freedom provided by the law is of no avail to you."

- Dr. Badasaheb Ambedker

The Committee took special note that violence against women and children, the Scheduled Castes and Tribes and the Backward Classes appears to be on the increase. There was a firm resolve that the new enactment shall address this and take a strong stand against all demeaning, debasing and denigrating practices such as child marriage, nude worship, the Devadasi system and child labour and put in place institutions [such as Standing Committees and Working Groups and systems like the Grama Nyayalaya] and pro-active measures of social monitoring to prevent and address these issues.

We also felt that Gram Sabhas should have an obligation to remove untouchability and the power to monitor the issue of licences of liquor shops and gambling dens and decide their locations and prevent usurious money lending.

Systems for resolving local disputes between people, between people and their Panchayat, between Panchayats and between Panchayats and the State have also been provided for taking care to ensure protections for the weaker sections through their representation in these bodies and also through systems of checks and balances.

• **Naya Panchayats:**

Naya Panchayats will be set up in every Gram Panchayat area for the settlement of petty crimes and minor disputes on the lines of the Grama Nyayalayas and will function until the Grama Nyayalaya Act of 2008 (Central Act of 2008) is notified by the State Government.

• **Grama Nyayalayas:**

For disputes or conflicts arising among and between citizens or any group of people or communities within a village or within any part of the area of a Panchayat or different Panchayats within the area of the Zilla Panchayat concerned; the Committee has recommended to the Government of Karnataka that they shall bring into force, the Grama Nyayalaya Act of 2008 (Central Act of 2008) by issuing a notification and appointing the required number of Nyayadhikaris under the said Act in consultation with the High Court to decide matters provided for in the said Act, as soon as possible but not later than six months.

• **District Panchayat Tribunals:**

The Government shall also set up a Tribunal in each District to be called the District Panchayat Tribunal for hearing disputes:

c. Between Citizens and the Panchayat and *Vice-Versa*, and

d. Among and between Panchayats

The Tribunal shall be Chaired by a retired District Judge, or a retired Judge of the Karnataka Judicial Service who was qualified to be a District Judge, or an Advocate who is qualified to be appointed as District Judge.

Two members who are well versed in Panchayat Raj Administration may be co-opted to be on the Tribunal of whom one shall be a woman and one a person belonging to the Scheduled Castes or the Scheduled Tribes.

The Chairperson and the member shall be entitled to an honorarium.

The Tribunal shall have the powers of a Civil Court to summon parties or witnesses to appear before it and also summon requisite records from an office of the Government to ascertain facts relevant in the hearing of the cases before it.

They shall hold sittings in the Taluk from which the complaint has emanated. Disputes shall be raised within 30 days; however, the Tribunal may entertain complaints made beyond the period if there is sufficient cause.

The decision of the Tribunal shall be final.

- **Ombudsperson:**

Grave complaints such as embezzlement, misappropriation and overstepping the boundaries of mandated powers against Panchayats, elected members and officials of Panchayats shall be investigated and decided by the Panchayat Ombudsmen set up under section 296-A and in the manner provided under sections 296-B to 296E.

The Standing Committees, especially the one for Social Justice, assisted by special working groups on each topic, have been given both the duties and powers to attempt conciliation and if need be refer these issues to the appropriate authority.

- **Sexual Harassment of Women:**

To prevent and address the sexual harassment of women in the workplace and elsewhere, it has been suggested that the Panchayats set up committees as appropriate on the lines of the Central enactment, 'The Sexual Harassment of Women at Workplace [Prevention, Prohibition and Redressal] Act 2013.

The Social Justice Standing Committee shall ensure that these committees shall be set up by employers and also set up village committees on the same lines with at least one member of the Gram Panchayat.

CHAPTER XX

CAPACITY BUILDING

“Give a man a fish and you feed him for a day. Teach a man to fish and you feed him for a lifetime.”

-Chinese Proverb

The Committee felt that it was important to build the capacity of members of Panchayats especially the Gram Panchayats so that they would be able to perform their duties adequately. Many members are easily intimidated by officials and often misguided by them. As a result the Gram Panchayat suffers and the needs of the citizens are not met. Capacity Building of the Gram Panchayat Members, especially the office bearers of the Gram Panchayat is a vital necessity.

However, women, members belonging to the scheduled castes and tribes and those engaged in earning a living, especially daily wagers, cannot afford to lose wages for training courses and women cannot leave children and family responsibilities to attend training workshops.

The SIRD training now provided is neither appropriate nor tailored for the illiterate and uninformed. They do not provide the environment to develop ‘the mind set’ or attitude required for Panchayathi Raj. Further, the programmes are all residential creating difficulties for women and daily wage earners. This is the main reason for members’ disinterest.

The Adhyaksha and Upadhyaksha, especially if they are female, require the support and understanding of their families which is often not available. A request from female panchayat representatives is that their families, especially their spouses be included in the Capacity Building programmes. Their initial capacity building programme shall be conducted after they are elected, but before they assume office. That is why the Committee has suggested that the election process should be complete one month before the incumbent term ends.

All Elected Representatives, Standing Committee Chairpersons, Chief Secretaries [a 2 year course is suggested], all staff, Chair and Members of the Panchayat Tribunals and the Ombudsperson require tailor made courses and on the job training and mentoring.

Capacity Building shall:

- be ongoing and held ‘in situ’;
- cover processes not only procedures;
- help members to understand concepts and principles of Gram Swaraj
- enable them to handle situations such as demands from constituency, disorderly and disruptive Gram Sabhas, or pressure from above [MLAs, Government Orders in violation of PRI Act, lack of revenue etc;].

- undergo a major revamp of the curriculum, the methods used and the means by which this capacity building is provided
- be decentralised

Door Dharshan and All India Radio shall be used for specially designed programmes to spread awareness and sensitise communities on issues of special interest, especially members of Gram Sabhas, SHGs, and associations of Women, Youth, and Children.

The State shall set up a Help Line with a toll free number for enquiries and clarifications from office bearers and members of panchayats.

- **Capacity Building Grant:**

The State Government shall make a budgetary allocation of funds necessary for Capacity Building of the elected representatives and staff of all three tiers of Panchayats for imparting of the required knowledge, attitude and skills to fulfil their responsibilities.

- **Constitution of Karnataka Panchayat Raj Administrative and Technical Service Board:-** (1)
For purposes of providing well equipped and efficient personnel for the administration of Panchayats, the Government shall constitute an independent Karnataka Panchayat Raj Administrative and Technical Service Board consisting of:

1. The Chief Minister, who shall be the Chairperson
2. The Minister for Panchayat Raj and Rural Development, Vice Chairperson
3. Four Adhyakshas representing each revenue division nominated by the Association of Adhyakshya and Upadhyakshas of whom at least one shall be a woman, one a person belonging to the Scheduled Castes or the Scheduled Tribes and one representing the backward classes.
4. The Director, Abdul Nazir Sab State Institute for Rural Development and Panchayat Raj, Mysore
5. The Director, Karnataka Administrative Training Institute, Mysore
6. One Representative of the Karnataka State Planning Board
7. One Member who is an expert in the field of Rural Development Administration
8. The Principal Secretary, Department of Rural Development and Panchayat Raj, who shall be the Member Secretary

- **The Functions of the Karnataka Panchayat Raj Administrative and Technical Service Board:**

The functions of the Karnataka Panchayat Raj Administrative and Technical Service Board shall be to:

1. Compile information related to all cadres, their strengths, their capacity building needs, existing vacancies and anticipated future vacancies with time lines, job descriptions, Recruitment Rules etc
2. Make recommendations related to personnel rationalization including convergence of various cadres.
3. Suggest changes required in Administrative Orders and rules, etc. for implementing the accepted recommendations.

4. Develop a set of guidelines with regard to Statutory and procedural issues that each group requires for smooth and effective discharge of duties.
5. Design and conduct Training for Trainers (TOT) where required, based on the needs assessment carried out by the Panchayats in partnership with the Nazir Sab Institute for Rural Development and Panchayat Raj (NISRD).
6. Assist with the design and development of out-reach and information generation Programs on Door Darshan and All India Radio for sustained, wide-spread broadcast of media products to create awareness among various stakeholders related to the responsibilities of all members of the local governments including citizen's themselves. These Programs should be addressed teachers, Anganwadi Workers, members of women's Self Help Groups and such other community based organisations, children, media persons, family members of the elected representatives, especially women, and all members of the Hamlet, Wards and Gram Sabhas.
7. Assist the Panchayats to identify resource persons or resource groups that can provide Capacity Building in their Panchayat areas, in a wide range of issues that are tailor made to specific local needs and in synchrony with the trainees' levels of development.
8. Together with the Abdul Nazir Sab State Institute for Rural Development,- (a) design, plan and conduct seminars on themes that will enhance the knowledge of the members or relevant issues relevant to rural development and administration, in partnership with the Zilla Panchayat at the District level.
9. Design, plan and manage, a State wide Panchayat Raj Helpline with a toll-free number to provide guidance and assistance, including clarifications related to technical, administrative and legal procedures.
10. Design, plan and conduct Training of Trainers for Rural Development Course for Panchayat Raj.
11. Design and begin a two year course for the Chief Secretaries of all tiers of Gram Swaraj in a recognised University or Staff College.

• **Policy Guidelines for Achievement:**

1. The principles of Gram Swaraj shall be the basis of all Capacity Building Programs.
2. The Capacity Building Programs shall be decentralised as far as possible and *in situ* programs will be mandatory. The aim of capacity building is not standardisation but the meeting of local specific needs and conditions to fulfil the overall aim.
3. Capacity Building shall be ongoing and periodic Refresher courses shall be built into the programme.
4. The thrust of the whole exercise shall be on inculcating the attitude and mind-set required to internalise devolution and local self governance, enhancing their skills to handle day to day administrative issues and increasing their knowledge of the subject,
5. The syllabi and curricula for the various capacity building components and the personnel to receive the training shall be as prescribed by rules.

- **Gram Panchayat's Obligations for Capacity Building:**

1. The Gram Panchayat shall have the power to provide de-centralised capacity building at the village level.
2. The Gram Panchayat shall have the liberty to access appropriate personnel and relevant expertise in fields such as gender, agriculture, ecology, rural development and industry, low-cost construction, water management, disaster management etc.
3. The Gram Panchayats shall identify the areas of focus to build the capacity of the Gram Panchayats and Gram Sabhas to design strategies and develop plans and interventions that are viable and sustainable.
4. The Gram Panchayat shall ensure that the Capacity Building needs of its Elected Representatives and Functionaries are identified and submitted to the Taluk Panchayat.
5. The Gram Panchayat shall also identify local capacity building resource persons and resource institutions for conducting Capacity Building
6. The Gram Panchayat shall ensure that Capacity Building Programs are conducted in a location and as per timings that are convenient for their Members and Staff, especially women.
7. The Gram Panchayat shall also ensure the awareness and sensitisation of their constituency.
8. It shall be the duty of the Gram Panchayat to guarantee that all their members' and functionaries' capacity are built so they discharge their duties efficiently and effectively and for the improvement and benefit of their constituencies.

- **Taluk Panchayat's Obligations for Capacity Building:**

1. The Taluk Panchayat shall ensure the implementation of Programs for the Capacity Building needs of the Elected Representatives and Functionaries of all Gram Panchayats in their area as identified and submitted by the Gram Panchayat are met as per the guidelines specified.
2. The Taluk Panchayat shall ensure that Capacity Building Programs are conducted in a location and as per timings that are convenient for the Members and Staff, especially women of the Taluk Panchayats.
3. The Taluk Panchayat shall also ensure the awareness and sensitisation of the constituency members in their Hamlets, Wards and Gram Sabhas; Standing Committees and other committees and all others who may require them.
4. It shall be the duty of the Taluk Panchayat to guarantee that all their members' and functionaries' capacity are built so they discharge their duties efficiently and effectively and for the improvement and benefit of their constituencies.

- **Zilla Panchayat's Obligations for Capacity Building:**

1. The Zilla Panchayat shall ensure that the Capacity Building needs of the Elected Representatives and Functionaries of the Taluk Panchayats as identified and submitted to the Taluk Panchayat are met as per the guidelines specified.
2. The Zilla Panchayat shall identify Expert capacity building resource persons and resource institutions for conducting Capacity Building.
3. The Zilla Panchayat shall assist the Karnataka Panchayat Raj Administrative and Technical Service Board to design, plan and implement Capacity Building and sensitisation Programs for Door Darshan and All India Radio and manage the Help Lines in the District.

CHAPTER XXI

AREAS OF STATE INTERVENTION

"No man is good enough to govern another man without the other's consent."

- Abraham Lincoln

State Policy

3. The process of setting up, tabling and implementing the recommendations of the report of the State Finance Commission needs to be strengthened, made mandatory and streamlined.
4. Increases in district Annual Plan outlays should not be distributed on a pro-rata basis to districts. Instead, districts with poor human and economic development indicators should receive more resources and shall follow the formula recommended by the State Finance Commission.
5. There shall be an increase in untied funds to all districts, especially those with very low human development indicators (HDI), primarily, the Hyderabad Karnataka area.
6. All vacant posts in PRIs shall be filled at the earliest.
7. There shall be a separate Commissionate/Directorate for Panchayat Raj for the effective administration like in other departments.
8. The Central Grama Nayalaya Act of 2008 shall be notified and brought into force with immediate effect.
9. Elections to the Panchayats shall be conducted three months prior to the end of their term.
10. The Karnataka Land Reforms Act needs to be reviewed in light of the altered agrarian situation to ensure that large holdings are prohibited and land is distributed as per the original intention of the Act.
11. Indiscriminate Land Acquisition by the Government on behalf of large Corporate Companies and Industries shall be discouraged and land shall be acquired only for the purpose of providing land to the landless and housing to the homeless SC/ST, OBC and economically weaker sections of our population.
12. It is in pursuance of this obligation the State has passed the Panchayathi Raj Act and once such a law has been enacted by the State transferring the 29 subjects to PRIs, the Constitution prohibits the State from developing schemes dealing with the very same

aspects and operating them directly. The Constitution also prohibits the State from transferring such subjects away from the Panchayat Raj Institutions [PRIs] through executive orders. While Article 243G gives the power to States to determine the scope and ambit of Panchayathi Raj, this cannot be misinterpreted to include reversal of Panchayathi Raj. The movement of Panchayathi Raj should be forward. It cannot be a see-saw approach. Therefore, an inventory of all Government Orders passed since 1993 needs to be made and the revocation of all orders that contravene **Article 243 G** of the Constitution shall be done.

13. The State Government shall publish the orders and circulars issued by its various departments within 72 hours on their websites.

14. The State Government of Karnataka shall endeavour to bring in necessary **progressive** amendments to the 73rd Constitutional Amendment if required to ensure that the Karnataka Panchayathi Raj Act is in keeping with the letter and spirit of our Constitution.

Constitutional or Judicial Amendments

1. The District Planning Committee needs reconstitution to accommodate representation of Presidents of Gram and Taluk Panchayats. Chairperson District Minister

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