

Chapter 10

Decentralization & Panchayati Raj Institutions (PRIs)

It is more than seven years since the Constitution 73rd Amendment Act 1992 came into force. Most of the Panchayati Raj Institutions (PRIs) constituted under the new Act are completing their first five-year tenure. Therefore, it is an appropriate time for appraising the functioning of PRIs in different States so as to reflect on emerging trends and to identify the impediments that have emerged in the process of democratic decentralisation.

2. The status of PRIs can be reviewed in terms of following parameters:

- (i) Conduct of Panchayat elections;
- (ii) Devolution of Financial Powers;
- (iii) Devolution of Functions and Functionaries;
- (iv) Constitution of District Planning Committees (DPCs);
- (v) Status of Gram Sabha;
- (vi) Act 40 of 1996;
- (vii) Checks and Balances over PRIs and Accountability

3. Further, there are other issues which are central to the effectiveness of PRIs as conduits for delivery of economic and social services. These include participation, transparency and sustainability and the interface of PRIs with other parallel organisations operating at the local level.

Conduct of Panchayat Elections:

4. Except for Assam, Arunachal Pradesh, Bihar and Pondicherry, Panchayats have been constituted in all other States where they were to be set up according to the new provisions. For Arunachal Pradesh, the Ministry of Rural Development intends to introduce a bill for amending Article 243 D of the Constitution to exempt it from the requirement of providing for reservation of seats for Scheduled Castes. This will provide a legal and Constitutional basis for PRIs in Arunachal Pradesh in accordance with the socio-demographic ethos of the State. In Bihar and Pondicherry, the elections to PRIs could not be held because the matter is sub-judice. Assam has cited law and order problems as a reason for not conducting Panchayat elections that fell due in 1997.

5. As a result of election to PRIs in States/Union Territories, 2,27,698 Panchayats at village level, 5906 Panchayats at intermediate level and 474 Panchayats at the district level have been constituted in the country. These Panchayats are being manned by about 34 lakhs elected representatives at all levels; of them one-third are women. This is the broadest representative base that exists in any country in the world.

6. Elections to PRIs on expiry of their first term have been held in Haryana, Karnataka, West Bengal, Uttar Pradesh and Madhya Pradesh.

Devolution of Financial Powers to PRIs:

7. States where panchayats exist have constituted their respective State Finance Commissions (SFCs). Except for Sikkim and Goa, SFCs have submitted their reports to respective State Governments. Recommendations of the SFCs have been accepted in toto by ten States, viz; Karnataka, Kerala, Madhya Pradesh, Manipur, Punjab, Rajasthan, Tamil Nadu, Tripura, Uttar Pradesh and West Bengal. In case of Andhra Pradesh, Himachal Pradesh, Haryana and Maharashtra, the State Governments are still considering the reports. In Gujarat, the report is yet to be placed before the State Legislature. The Government of Assam has accepted SFC's recommendations in part while the Orissa Government has accepted the report with some modifications. It would seem that the reports of SFCs have not attracted serious attention from many State Governments.

The recommendations of the State Finance Commissions can be divided into three categories:

- (i) assignment of taxes, duties, levies and tolls to local bodies;
- (ii) sharing of revenue proceeds; and
- (iii) transfers on account of grants-in-aid and other financial assistance.

As per the SFC recommendations, many of the State Governments have agreed to give PRIs a specific percentage of share in some of the State taxes like land revenue and cess on it, additional stamp duty, entertainment tax, royalties on minerals and mines, forest revenue and market fees; these taxes are less buoyant in nature and have no relation to the powers and functions to be devolved upon Panchayats. More buoyant taxes like sales tax and excise are kept out of the purview of PRIs. All SFCs have put great emphasis on internal revenue mobilisation, but none has suggested any effective mechanism for PRIs to generate their own revenue. SFCs do not recommend or foresee any noticeable change in the tax (including the non-tax) jurisdiction of local bodies. However, the SFCs suggest better use of the existing tax jurisdiction by referring the system of property taxation and giving greater autonomy to local bodies in matters relating to tax rate setting. SFCs place greater reliance on transfers for bridging the gap between the local bodies' revenue and expenditure.

8. In real terms, no improvement in local resource base is likely as a result of the recommendations of SFCs. Moreover, the SFC reports have paid far less attention to issues of autonomy, financial management and auditing procedures. The main deficiency of the reports lies in the fact that the recommendations are not based on a clear statement of the spending responsibilities of local bodies. Indeed the absence of attention to the elementary principle, that expenditure assignment must precede any tax or revenue assignment, has made most of the SFC's recommendations suspect.

9. All PRIs have a poor fiscal base. While resource mobilisation by the PRIs is generally limited, it is imperative to provide PRIs with revenue raising powers of their own in order to reduce their excessive dependence on the State and Central Governments. But till such time that they are financially dependent on funds from the State Governments, the State Budgets should specify the amount earmarked for district sector plans under Panchayati Raj as also their distribution among the three tiers. It is suggested that 30-40 percent of a State's Plan be devolved on local bodies as already done in the State of Kerala. In addition, a part of the finances should be in the form of untied funds so that the funds can be utilised as per the felt needs of the Panchayats. Training and capacity building of PRI functionaries is essential and devolution of

financial resources must be accompanied by suitable strengthening of PRIs through transfer of departmental functionaries.

Devolution of Functions and Functionaries:

10. In respect of the 29 subjects identified in the Eleventh Schedule it is necessary for the State Governments to clearly identify what would be done by the three tiers of Panchayats at their levels. This should be based on the rule that what can be done at the lower level should be done only at that level, no higher. Furthermore, departmental functionaries who are required to implement the programmes at the Panchayat level must be placed under their overall supervision and control.

11. In States like Gujarat, Madhya Pradesh, Maharashtra, Karnataka, Kerala, Orissa, Rajasthan, Tripura, Uttar Pradesh and West Bengal detailed instructions have already been issued and in several cases departmental functionaries have been placed with the Panchayats. The Government of Madhya Pradesh has transferred 18 Departments to the PRIs with administrative control over class III and IV employees deputed to the Panchayats. PRIs are actively involved in the implementation of the programmes of these Departments. (see Box 1)

Box - 1

Panchayati Raj in Madhya Pradesh

- Activities of governance and development have been clearly demarcated between Panchayat Sector and the State Sector.
- 18 Subjects/Departments have been transferred to PRIs.
- All district and sub-district level officers and employees in respect of programmes transferred to PRIs are placed under control of PRIs at the appropriate level.
- Greater coordination among the three tiers through representation of 1/5 sarpanchs to Janpad Panchayat, Janpad Panchayat Adhyakshas to Zilla Parishad.
- Gram Panchayats are empowered to sanction development works up to Rs.Three lakhs, Janpad Panchayats up to Rs.Seven lakhs and Zilla Panchayat up to Rs.Ten lakhs.
- Merger of District Rural Development Agencies (DRDAs) with Zilla Panchayats.
- Gram Panchayats recruit the Panchayat karmi designated as Secretaries. Shiksha Karmis are appointed by Janpad Panchayats and Zilla Parishad. No recruitment by State Government to `dying cadres'.
- Budgetary allocations for transferred programmes/subjects are made available to PRIs. From 2000-01, tier-wise and district wise provision would be made in the Budget to ensure efficient flow of resources to PRIs.
- Greater transparency in selection of beneficiaries and implementation of programme through social audit by strengthening the Gram Sabha/Panchayat in the State. For instance, no technical evaluation required for Jawahar Gram Samaridhi Yojana (JGSY, or old JRY) works; instead quality and utility of works subjected to social audit through Gram Sabhas.
- First and only State to introduce the concept of "Right to Recall" of elected representatives at Gram Panchayats once in their tenure for greater accountability to the Gram Sabha.

12. The Government of Kerala has transferred Agriculture, Health, Veterinary and Primary Education Departments to the Panchayats. About 40,590 staff, moveable and immovable property have also been transferred to the Panchayats. The State Government however continues to pay the staff salaries.

13. The Government of Uttar Pradesh has transferred selective activities/functions and functionaries of 11 departments along with their salary to Village Panchayats. During 1999-2000 nearly ten percent of the Annual State Plan outlay, i.e., Rs. 1,100 crore was to be directly transferred to the Village Panchayats. The State Government has further taken a decision to declare cadres of all its employees whose services have

been placed under administrative control of Village Panchayat as 'dying cadre'. The Government has also posted at least one functionary as Panchayat Secretary in each Village Panchayat. The assets of departments whose selective functions have been transferred to Village Panchayats within the territory of those Panchayats will be handed over to concerned Village Panchayat for maintenance in a time-bound manner.

14. The Government of Rajasthan has transferred nine schemes which were earlier being implemented by DRDAs to the Zilla Parishad with effect from 1.4.1999. It has also set up a Village Level Standing Committee for each village under the Chairmanship of Sarpanch of the Gram Panchayat to act as "watch dog". It will keep watch on the absenteeism of grassroot functionaries of the Departments, namely Patwari, Teachers, ANMS, MPW, VLW, Anganwadi workers and Compounder posted in rural areas. Primary and Upper Primary Education, Literacy and Continuing Education, Rajiv Gandhi Scheme for Restoration of Traditional Drinking Water Sources, Rajiv Gandhi Swarn Jayanti Pathshalas will all be implemented by the PRIs. Further, innovative projects like Lok Jumbish, Shiksha Karmi and District Primary Education Programme (DPEP) have also been brought under the umbrella of the Panchayati Raj Department. In Orissa, 16 subjects listed in the Eleventh Schedule of the Constitution have been transferred to the Zilla Parishads and concerned District Level Officers of the line department have been declared ex-officio Additional Executive Officers of the Zilla Parishads.

15. In some States, functions and functionaries have not been transferred to PRIs. For instance, in the field of decentralisation, the State Government of Andhra Pradesh is implementing 'JANMABHOOMI' mainly through the State bureaucracy, which is against the spirit of the 73rd Constitution Amendment Act, 1992. However, after strong protests from Sarpanches, the State Government has agreed to transfer 16 out of the 29 subjects of rural administration to the local bodies. Also, Haryana State has circulated a list of 16 Subjects to be transferred to PRIs. The exercise appears to be vague as it does not provide for any transfer of funds, personnel and powers to the elected bodies. The responsibilities relate mostly to supervision and monitoring.

16. In view of the above, it is felt that initiatives such as taken by Madhya Pradesh, and Kerala need to be taken by all the States and Union Territories if Panchayats are to be established as institutions of local self-government.

Constitution of District Planning Committees (DPCs):

17. Despite long years of delay, many States are yet to constitute the DPCs. Only nine States, namely, Haryana (just in 3 Districts), Karnataka (10 out of 27 districts), Kerala, Madhya Pradesh, Rajasthan, Sikkim, Tamil Nadu, Tripura and West Bengal and two Union Territories, namely, Andaman & Nicobar Islands and Daman & Diu have taken action to constitute DPCs. In Tamil Nadu, operational orders for DPCs are yet to be issued. The formation of DPCs must receive top priority by the State Governments; it is only then that planning would genuinely begin from the grassroots. In Kerala, a Voluntary Technical Corps (VTC) has been created consisting of about 10,000 technical experienced people to vet and re-work projects prepared by the panchayats. These include retired persons with technical expertise, bank personnel and officials of government departments. Similarly, in other States, voluntary groups and institutions need to be identified for providing services, training and support for effective implementation of programmes at the local level. The Planning model followed in the State of Kerala is worth replication in other States also. (see Box 2)

Box- 2

People's Planning Campaign in Kerala.

- People's campaign for Planning was launched in Kerala State in 1996, with the aim of empowering local bodies in the State to function as institutions of local self government as well as the agents of local development.
- Devolution of 35% to 40% of the State's Plan outlay for projects and programmes drawn up and implemented by local bodies.
- The People's Campaign has been organised in six phases with clearly defined objectives for each phase.
- Phase I - Gram Sabha: Identification of the needs of the people has been accomplished by convening Gram Sabha. Priorities listed and Awareness created.
- Phase II - Development Seminars: Make an objective assessment of the natural and human resources in the locality. Development Seminars also discuss the Development Reports being prepared for each Panchayat.
- Phase III - Task Forces: Sector-wise Task Forces have been constituted in local bodies to projectise the recommendations & suggestions from the development seminars.
- Phase IV - Annual Plan Finalisation: The major task was finalisation of Annual Plan of Gram Panchayat by including projects approved by the local bodies.
- Phase V - Integration of Plans of Higher Tiers: Every Block Panchayat has to prepare its development Plan integrating village development reports as also the Centrally Sponsored poverty alleviation programmes. Similarly, each District Panchayat has to prepare a development report integrating the suggestions and programmes of the lower tiers.
- Phase VI - Plan Appraisal: This phase is organised to ensure technical soundness and viability of projects prepared by the local bodies before they are approved for implementation. For this, a new concept of Voluntary Technical Corps (VTC) has been adopted. Retired technical experts & professionals were encouraged to enroll themselves as volunteers to appraise the projects and Plan of local bodies. Further, Expert Committees were formed at Block (BLEC), Municipality (MLEC), Corporation (CLEC) and District (DLEC) levels drawing personnel from the VTC and including certain categories of mandatory officers. The Committees have Subject Committee and their tasks are technical and financial appraisal of the projects and issue of technical sanctions.
- Training Programmes: For ensuring the success of local level planning, training at the State, District, Block and Gram Panchayat levels has been organised for the elected members, officials, resource persons and non-official experts.

Status of Gram Sabha:

18. Nearly seven years down the line, it has been observed that most of the State Acts have not spelt the powers of Gram Sabhas nor have any procedures been laid down for the functioning of these bodies. For instance, (i) the law in most States prescribed *at least* two meetings of the Gram Sabha in a year. Unfortunately, the minimum has been interpreted as a maximum. (ii) Provision doing away with the need for quorum for adjourned meetings of the Gram Sabha has reinforced the tendency to view Gram Sabha meetings as a mere formality; (iii) State laws set out highly ritualistic functions for the Gram Sabhas. Gram Sabhas are to recommend and suggest, consider annual accounts, administrative reports, audit notes, etc. These suggestions and recommendations of the Gram Sabhas could be ignored by the Gram Panchayat.

19. There are, at the same time, heavy expectations from this weak and powerless Gram Sabha - it was expected to promote harmony and unity in the village, mobilise voluntary labour and contribution in kind and promote programmes for adult education

and family welfare. It must be acknowledged that some State Acts do provide for powers to the Gram Sabhas to identify beneficiaries who are to be covered under different development schemes, For instance the Panchayati Raj Acts of Punjab, Rajasthan, Uttar Pradesh, Karnataka and Bihar did vest powers in the Gram Sabhas to select beneficiaries, but in some cases strange qualifications were added. The Rajasthan law provided that in case the Gram Sabha was unable to select the beneficiaries in a reasonable time, the Gram Panchayat would identify them. This provision expressed faith in the Gram Sabha while at the same time it also permitted its undermining. In contrast, Madhya Pradesh and Kerala have made legal provisions to make the advice of Gram Sabha binding on the Gram Panchayat. Finally, the membership of a Gram Sabha varies widely from State to State-from 250 to 8,000. It may be confined to a single village or may span 2-3 villages. Where the Gram Sabhas cover more than one village, their meetings qualitatively are seen to be very poor. The 73rd Amendment has not anticipated that the very size of a Panchayat may work to disempower a Gram Sabha.

20. Principally, the 73rd Amendment has not set down in black and white an imperative for the empowerment of Gram Sabhas. In order to accelerate the emergence of Gram Sabhas as bodies to whom the PRIs are accountable, it might be essential to spell out the powers and functions of Gram Sabha in great detail --articulating their role as planners, decision makers and auditors. The size of a Gram Sabha also needs to be carefully set out.

21. However, despite all these shortcomings, there are several examples of how dedicated/committed, enlightened Sarpanches have transformed their villages into self-reliant units. Some illustrations are given in the boxes below.

Box-3

Shri Hardevsingh Jadeja, Sarpanch, Rajasamadhiala Village, Gujarat.

- Shri Hardevsingh Jadeja, Sarpanch has transformed the village Rajasamadhiala into a model village, totally crime - free and characterised by self-reliance, inter-caste amity and active community participation.
- Nobody in village ever locks his house; the shopkeeper does not lock the shop for his afternoon siesta. People can buy/help themselves unattended by the shopkeeper and leave the money in a matchbox, which is also unattended/unguarded.
- Shri Hardevsingh Jadeja has succeeded in convincing the village people that demanding or begging from the Government is not the solution to their problems but joining hands is. About Rs. 100 million has been earned in 15 villages due to better irrigation through the small dams built by the village people themselves with very little Government help.
- This charismatic Sarpanch is now spreading his message in the neighbouring villages.

Box-4

Smt. Kamala Mahato, Pradhan, Bandoan Village of Purulia District, West Bengal.

- Smt. Kamala Mahato is one of 186 women Panchayat Pradhans in West Bengal with its 3,222 Village Panchayats.
- Bandoan is a poor village in one of the poorest districts, Purulia. The village comprises a mix of tribal and non-tribal population, most of whom are agricultural labourers. Scarcity of water was the major problem of the village. Smt.Kamala Mahato had 10 tubewells dug in the village in the 5 years since she took over as Pradhan; there are other wells and irrigation wells as well in the village.
- Smt. Kamala Mahato wanted women of the village to have income of their own. To achieve this, she has vigorously implemented Integrated Rural Development Programme (IRDP) and the women now are profitably engaged in poultry, dairy, livestock and frying muri. They are able to help themselves and even attend to cleaning of wells and repair of tubewells. The Panchayat led by her has also been successful in settling cases of domestic violence without the help of the police.

Box -5

Shri Rajinder Kumar, Sarpanch, Village Chamaund, Hissar District, Haryana.

- There are 1,200 people in this village but none has ever approached the police or any court of law for redressal. Even the most contentious issues are resolved by the Panchayat by consensus. Casteism has been relegated to the background and universal brotherhood prevails in this village.
- Grants of over Rs.35 lakhs received by the Panchayat have been spent on construction of a village school, dispensary, drains and other similar development works. Watershed development has also been taken up in a big way.
- Almost every child including girl children of the village goes to school which has resulted in higher literacy rate in the village.

Box-6
Fatima Bi: Success Story of a Woman Sarpanch

- Fatima Bi, Sarpanch of Kalva village in Kurnool district, Andhra Pradesh, was an illiterate woman but she was good enough to bag the United Nations Development Programme's (UNDP) Race Against Poverty Award for the Asia - Pacific Region.
- She was an ordinary housewife when she became a proud Sarpanch, a seat declared reserved for women in her village.
- In her new role, Fatima Bi was influenced by Vijay Shanti, the actress who played an angry woman fighting for justice in the Telugu blockbuster Ramuluamma. She was also inspired by the District Collector and the UNDP Project Director.
- In the very first session of training for Panchayat women, Fatima Bi thundered: "Where are the village records?" The Mandal officials promptly promised to bring all the records over. Then, she called a meeting of the village women and asked them to join hands with her in developing the village.
- That was the beginning of an inspired leadership. A metal road was laid, check dams were built, a new school building was raised and the old school building was done up. Under the Chief Minister's Janma Bhoomi programme village women raised Rs 30,000. A scheme was taken up at a cost of Rs 2 lakh to dig a 5 Km. irrigation drain and clear 500 acres of fallow land for paddy cultivation. Fatima Bi led the womenfolk to join the 'Podupu Lakshmi' groups and urged them to save a small amount of money every month. Within a year, 40 Thrift and Self-Help Groups with 300 women members saved Rs. 2 lakh. The UNDP was impressed by this achievement and granted Rs.12 lakh as an interest - free loan to the Village Development Organisation - an umbrella organization of Kalva. The organisation is now run by a women committee consisting of representatives of Self-Help Groups with Rs. 20 lakh at its disposal. The loans granted by it have helped many families to undertake small businesses and improve their living conditions. The enterprising women of Kalva have now started helping neighbouring villages with loans.
- Once poor and backward, Kalva is now a completely transformed village with happy faces all around and modern amenities in almost all houses. Child marriages are a thing of past. The women who have suffered social injustice all along now stand by the side of their daughters. All credit to the hard working woman Sarpanch who rightfully won the title of Uttam Sarpanch and received an award on Independence Day this year. She is now planning a hospital and a ring road around her village to connect it to the bus stand.

22. Despite reluctance of the state governments to give more powers to the Gram Sabhas (see below a discussion on dilution of law by the states in the case of tribal areas), it must be said that the Central Government favours strengthening of Gram Sabhas as the bedrock of grassroots democracy. The year 1999-2000 was declared "**Year of the Gram Sabha**". To energise Gram Sabhas, State/UT Governments were told to initiate measures such as vesting full powers in them for identifying beneficiaries and determining the priorities for various programmes in the village and approval of budget. The Ministry has not done any evaluation about the long term impact of this declaration on participation and empowerment of the disadvantaged.

Act 40 of 1996:

23. The provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA) have come into force on 24th December 1996. The Act extends Panchayats to tribal areas of eight States namely, Andhra Pradesh, Bihar, Gujarat, Himachal Pradesh, Maharashtra, Madhya Pradesh, Orissa and Rajasthan; it will enable tribal society to assume control of its own destiny to preserve and conserve the traditional rights over natural resources. All States barring Bihar and Rajasthan have enacted State

Legislation to give effect to the provisions contained in Act 40, 1996 as mandated under the Central Act. Rajasthan promulgated an ordinance in this regard recently.

24. PESA is a unique legislation; it gives radical self-governance powers to the tribal community and recognizes its traditional community rights over natural resources. Prior to passage of this Act, laws passed by central and state governments were applied mechanically to tribal areas even when these contravened traditional tribal practices and institutions. However, under PESA the law focuses on settlements which the tribal people themselves perceive to be traditional and organic entities. In fact this is the first law that empowers people to redefine their own administrative boundaries. PESA provides that the tribal *gram sabha* so defined would be empowered to approve all development plans, control all functionaries and institutions of all social sectors as well as control all minor water bodies, minor minerals and non-timber forest resources. It would also have the authority to control land alienation, impose prohibition, manage village markets and resolve internal conflicts by traditional modes.

25. In one stroke, the Act creates space for people's empowerment, genuine popular political participation, convergent community action, sustainable people-oriented development and auto-generated emancipation. In reality, however, since its passage the law has almost been forgotten and it has not become part of the mainstream political or policy discourse. Many state governments have passed laws not fully in conformity with the central law. Academics, administrators, policy makers and even parliamentarians are unaware of this. For their part, the tribal greeted the law with enthusiasm but find themselves progressively handicapped by the lack of actual preparedness to negotiate development and of democratisation in the manner envisaged by the law.

A Minimalistic interpretation

26. Implementation of the law has been severely hampered by the reluctance of most state governments to make laws and rules that conform to the spirit of the law. What is perceived as weak-kneed political will has led to bureaucratic creativity in minimalistic interpretations of the law.

27. Bureaucratic subversion of the letter and spirit of the law has been most visible in interpretation of that provision of PESA by which *panchayats* at appropriate levels and the *gram sabha* have been vested with the ownership of minor forest produce (MFP). For tribal forest dwellers, the forest department has been the most visible oppression (One piece of anecdotal evidence, recounted by Verrier Elwin, is particularly revealing. When queried about his idea of paradise, a tribal described it as miles and miles of forest, but without a forest guard!). Enforcement of PESA is perceived as weakening the stranglehold of the forest bureaucracy, and it is instructive to study *the interpretation of PESA* favoured by the state governments for attempts to minimise the bureaucratic loss of control.

28. Firstly, the state governments have argued that the power of *gram sabhas* can extend only to forest located within the revenue boundaries of a village. This one provision, if accepted, would nullify the law because often reserved forest in most states is not located within a revenue village. The spirit of the law is clearly to extend ownership to the *gram sabha* of MFP from forests located in vicinity of the village of traditional access. In fact, in the case of Joint Forest Management (JFM), the Madhya Pradesh government vested the village forest committees with authority to manage

forest falling within a radius of five kilometres of the village boundaries. A similar dispensation would eminently suit the PESA case as well.

29. Secondly, MFP has been defined to exclude cane and bamboo. This is contrary to the commonsense definition of MFP which is 'that part of a tree that can be sustainably harvested without damage to the survival of the tree.' More significantly, it denies access to poor tribal artisans to two types of MFP on which their livelihood is most critically dependent. On the other hand, many state policies have subsidized bamboo for private industry.

30. Another controversy is in the interpretation of the concept of 'ownership' of MFP by the *gram sabha*. The status quoists' view is that ownership does not provide *gram sabha* the right to take any decisions related to stewardship, management or sustainable harvesting of MFPs. Contrary to a whole body of empirical evidence from the national and international experience of JFM and community control of forests, it is claimed that the exercise of 'ownership' of MFPs by *gram sabhas* in this sense would inevitably lead to a destruction of forests. Therefore, 'ownership as provided for in PESA is reinterpreted to mean the right to net revenues from MFP, after retaining administrative expenses of the forest department.

31. These interpretations have almost killed the concept of ownership and control of local resources by Gram Sabha. The status of the operationalisation of other powers envisaged in PESA by the State Governments is given in the following Table:

Table-1

Panchayat (Extension to the Scheduled Areas) Act, 1996- Functional Devolution on Panchayats

Sl	Components	Mandatory Provision	Status
1	2	3	4
1	Definition of Village	A village consists of a 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	All States adopted this definition except Maharashtra, which is silent on this subject.
2	Status and Functions of Gram Sabha	Every village will have a Gram Sabha which will be competent to safeguard and preserve the traditions and customs of the people, their cultural identity.	All State Acts follow the Central Act. However, regarding customary mode of dispute resolution Andhra Pradesh Act puts a condition 'without detriment to any law for the time being in force'. The Orissa Act adds that it should be consistent with the relevant laws in force and in harmony with tenets of the Constitution and Human Rights.

3	Constitution of Panchayat	Panchayats will be constituted at village level with reservations for Scheduled Tribes in the manner prescribed in Part IX of the Constitution.	Andhra Pradesh and Himachal Pradesh Acts have extended the reservation of elective seats and Chairpersons to both Gram Panchayats and Mandal/intermediate Panchayats. The Maharashtra Act does not mention it.
4	Acquisition of land for development projects and resettlement of displaced persons	Prior consultation with Gram Sabha or Panchayats at the appropriate level shall be made mandatory	In Andhra Pradesh, Gram Sabhas have no role. Gujarat assigned this power to Taluka Panchayat, however, no provision relating to coordination of such projects at state level. Orissa assigned the power to Zilla Panchayat with no role for the Gram Sabha/Gram Panchayat
5	Planning and Management of Minor Water Bodies	Entrusted to Panchayats at the appropriate level	Maharashtra Act does not make any mention of it. Orissa assigned power to Zilla Parishad instead of Gram Sabha/Gram Panchayat
6	Grant of Prospecting licence or mining lease for minor minerals	Prior recommendations of Gram Sabha or the Panchayats at the appropriate level shall be made mandatory.	Andhra Pradesh-gives primacy to Gram Panchayat in place of Gram Sabha. Gujarat-does not make mention of it. Himachal Pradesh-retained primacy of Gram Sabha but term 'shall be made mandatory' has been replaced by 'shall be taken into consideration'. Madhya Pradesh – No mention in the Madhya Pradesh Panchayat Act but the relevant subject act Mines and Minerals (Regulation and Development Act) 1957 amended to assign powers to Gram Sabha and

			<p>Panchayats at appropriate level.</p> <p>Maharashtra assigns powers to Gram Panchayat. Gram Sabha has no role in the matter.</p> <p>Orissa gives powers to Zilla Parishad.</p>
7	Grant of concession for exploitation of minor minerals by auction.	Prior recommendation of Gram Sabha or Panchayats at appropriate level shall be made mandatory.	<p>Andhra Pradesh and Maharashtra assigned the function to Gram Panchayat in place of Gram Sabha,</p> <p>Gujarat - No mention of it.</p> <p>Madhya Pradesh - Madhya Pradesh Panchayat Act does not make mention of it but the subject Act Mines and Minerals (Regulation and Development) Act, 1987 amended to assign the power to Panchayat at appropriate level.</p> <p>Orissa- assigned the power to Zilla Parishad.</p>
8.	Enforce prohibition / regulate or restrict sale & consumption of any intoxicant	Panchayats at the appropriate level and the Gram Sabha to be endowed with the powers	All State Acts followed the Central Act except Madhya Pradesh which does not make provision for it in its PR Amendment Act. However, the Subject Act Madhya Pradesh Excise Act 1915 has been amended to give powers to Gram Sabha.
9.	Ownership of Minor Forest Produce (MFP)	Panchayats at the appropriate level and the Gram Sabha endowed with the powers of ownership	All State Acts follow Central Act by assigning this power either to Gram Sabha or to the Gram Panchayats
10	Prevention & Restoration of Tribal Alienated Land	Panchayats at appropriate level and the Gram Sabha to be endowed with this power.	Gujarat, Himachal Pradesh, Madhya Pradesh Panchayati Raj Amendment Acts do not make provision for this. However, in case of Madhya Pradesh, the Madhya Pradesh Land

			Revenue Code, 1959 has been amended to give power to Gram Sabha.
11	Manage Village Markets	Panchayats at appropriate level and the Gram Sabha to be endowed with this power.	Gujarat and Maharashtra Amendment Acts are silent on this matter.
12	Money lending to the Scheduled Tribes	Panchayats at appropriate level and the Gram Sabha to be endowed with this power.	Madhya Pradesh Amendment Act does not make a mention of this subject.
13	Exercise control over institutions and functionaries in all social sectors.	Panchayats at appropriate level or the Gram Sabha to be endowed with this power.	All State Acts except Madhya Pradesh assign this power either to Gram Panchayat or Panchayat Samiti / Mandal Parishad. The Madhya Pradesh Amendment Act has given this power to the Gram Sabha and the Janpad Panchayat or the Zilla Parishad.
14	Control over Local Plans and Resources including Tribal Sub Plans	Panchayats at appropriate level and the Gram Sabha to be endowed with this power.	State Acts of Andhra Pradesh, Gujarat, Himachal Pradesh, Orissa have assigned the power to Panchayat Samiti / Taluka Panchayat / Mandal Parishad while the Madhya Pradesh and Maharashtra Acts assign this power to Gram Sabha.

32. In order to make the Central Act effective, it is necessary for the State Governments to make appropriate amendments in their State Laws which impinge on specific provisions contained in the Central Act namely (i) Land Acquisition Act; (ii) Excise Act; (iii) State Irrigation Act; (iv) Minor Forest Produce Act; (v) Mines and Minerals Acts; (vi) Land Revenue Code / Act; (vii) SC/ST Land Alienation Act; (viii) Money Lenders Act; and (ix) Regulated Market Act. No doubt, some State Governments (MP) have already amended some of the relevant Acts; others are yet to follow suit.

33. The above review of the Central Act 40 reveals that most State Acts and especially of Orissa have assigned a less prominent role to Gram Sabha / Gram Panchayat in Schedule Areas than envisaged in the Central Act.

34. Orissa has made a complete departure from the Central Act by assigning the powers to be consulted to the Zilla Parishad in place of Gram Sabha / Gram Panchayat in respect of (a) acquisition of land and resettling and rehabilitation of the persons affected by the acquisition of land; (b) grant of prospecting licence or mining lease for

minor minerals; (c) grant of concession for the exploitation of minor minerals by auction; and (d) planning and management of minor water bodies.

35. It is pertinent that the spirit behind the provision about mandatory consultation with Gram Sabha or Panchayat at the appropriate levels on subjects like acquisition of land, grant of mineral lease, etc. is that the tribals may own land but they have no control over it and are not able to put it to productive use and they have generally been out-manoeuvred and are losing control over natural resources. In view of this, to safeguard their interests, the consent of the local tribals at village level has been made obligatory. Further, the land to be acquired, mineral resources, water bodies etc. may fall within the jurisdiction of more than one village/block/district. Therefore, to cover this aspect, the phrase 'Panchayats at the appropriate levels' has been used in the Central Act.

36. The real danger thus is that the far-reaching changes introduced in the law will remain a dead letter unless they are translated into action and sustained by a process of awareness and capacity building among the tribal communities. There are a number of grave problems that must be overcome if the law is genuinely to transform tribal reality, but it is important to stress that none of these barriers to tribal self-government is insurmountable.

Checks and Balances over PRIs and Accountability:

37. Under the State laws, wide powers of suspension and dismissal have been vested in the State bureaucracy. This straightaway places Panchayati Raj Institutions in a position of disadvantage vis-a-vis even middle rung functionaries of State Governments. It also takes away the essential characteristic of PRIs as elected representative bodies. In many States, even Gram Panchayats have been placed in a position of subordination vis-a-vis Intermediate Panchayats and so on.

38. A scrutiny of State laws reveals that almost all the State Governments have kept enough powers with themselves to deal with PRIs as far as ensuring checks and balances is concerned. These provisions had existed even before the introduction of 73rd Constitution Amendment Act and had been widely used in different States. However, these provisions have in-built limitations because they directly affect the concept of democratic decentralisation on the one hand and the autonomy of the PRIs on the other.

39. Another important aspect of the administrative restructuring process is the merger of District Rural Development Agencies (DRDAs) with Zilla Parishads. In the light of the 73rd Constitution Amendment Act, DRDAs need to be restructured to suit the changed scenario. They should work under the overall control and supervision of the Zilla Parishads. In the States of Karnataka, Kerala and Madhya Pradesh, DRDAs have already been merged with the Zilla Parishads. In Himachal Pradesh, Orissa, Rajasthan, Uttar Pradesh and West Bengal, the Chairman of Zilla Parishads is also the Chairman of the DRDAs. However, Maharashtra has expressed its reservation to the merger of DRDAs with the Zilla Parishads. Andhra Pradesh also is not in favour of a DRDA- District Panchayat merger. . In Andhra Pradesh, the District Collector is the Chairperson of DRDA whereas Chairperson of District Panchayat its Vice-President.

40. Instances have been reported where the Gram Panchayat Sarpanches have to spend a good lot of time visiting Block Offices and of harassment by Block level officials. Systems which require Gram Panchayat Pradhan / Sarpanch to approach

Block office for funds and/or technical approval need drastic change. Village bodies should be able to spend funds on their own without having to take technical approval from government officials. These interactions with Block staff distort the role of Pradhans as elected representatives of the Gram Sabha and induct them into bad old ways of officialdom and also encourage corruption.

Sustainability:

41. The Constitution Amendment Act itself has certain provisions, which adversely affect the sustainability of these institutions. For instance, while there are reservations for women and scheduled castes/scheduled tribes, these seats are to be allotted by rotation to different constituencies. In practice, this implies that a woman or a scheduled caste/tribal elected to a panchayat will normally have a term of five years, with no prospect of re-election (In Karnataka the term is only for 20 months). This goes against the spirit of democracy as people work hard for their constituencies in the expectation that they would be returned to power in the next elections. The existing provisions provide no incentive for the elected persons to deliver on their promises; on the contrary, self-interest would dominate, with little concern for the community at large.

42. The three tiers also compete for funds and powers. The lower tiers are normally the losers in this process. This would make decentralised development, within a district plan, infructuous and non-sustainable. It is imperative in the given framework that the state legislatures clearly delineate the work to be done by each of the three tiers in each of the sectors which fall within the purview of panchayats, in order to ensure that the panchayats at the village level can be effective institutions for local governance.

Transparency:

43. Empowerment of Gram Sabhas would require efforts at mobilisation of the village community for mass participation in meetings of the Gram Sabha. Further, a massive awareness generation programme needs to be taken up to inform Gram Sabhas about their rights in planning, implementation and audit of development programmes and in control over natural resources, land records and conflict resolution.

44. In Madhya Pradesh development works of PRIs are subjected to social audit. For instance, works under Jawahar Gram Samridhi Yojana (JGSY) (old JRY) are exempted from evaluation by technical personnel. Now, instead of Junior/Sub Engineer, Sarpanch moves the Gram Sabha to get an expression of its satisfaction with the quality and utility of the Project. Gram Sabha certifies the utilization of expenditure; only if the Gram Sabha refuses to do so can the competent authority under the Act (i.e. Sub-Divisional Officer) get the evaluation done by a Committee consisting of a Panch, a sub-engineer and social worker from the area. Social audit is not only limited to development works. An expression of dissatisfaction of the Gram Sabha about the PRI performance in individual beneficiary programmes leads to an inquiry by the competent authority through a Committee. Further 'Right to Recall' of elected representatives at the Gram Panchayat level has enhanced the accountability and transparency at the village level.

45. A key to the success of the Panchayati Raj system is transparency in the way these bodies function. Being closer to the people, the Panchayats' right to information -- and accessibility to the Panchayats -- must be ensured. Central Government circular in 1997 proposed that each State may consider passing orders highlighting three different aspects of transparency.

46. First, the Panchayati Raj Institutions, especially Gram Panchayats, should display all vital information about development projects (especially receipt of funds and how they are being spent) in the Panchayat Offices or on a prominent board outside the village school for the information of the public.

Second, all relevant records should be open to inspection.

Third, members of public should also be able to obtain photocopies of documents related to development projects as also matters of general public interest by paying a nominal charge. Such documents would extend in particularly to all bills, muster rolls, vouchers, estimates and measurement books as well as information about the criterion and procedure for selection of beneficiaries. A list of beneficiaries should not only be available for inspection, but photocopies of it should be given on demand from a convenient place such as Block or Tehsil Office.

Accountability

47. To what extent are the village panchayats accountable to the common people and looking after public interest? Do the ordinary masses feel involved and participate? A detailed field study of several village level Panchayats in Uttar Pradesh indicated that these objectives were only being partially met. Excerpts from the study are quoted below:

48. Even two years after the new legislation imbued the panchayats with responsibility for developmental functions (albeit with an instrumentalist orientation) listed in the Eleventh Schedule, no substantive changes have occurred in the nature or extent of financial devolution or bureaucratic control.

49. In the formal sense, therefore, panchayats have had a limited but important role in the various stages of planning and implementation of several developmental programmes, especially anti-poverty programmes. However, there is no evidence from the study that the gram sabhas have been involved in any of the roles assigned to them, even though on occasion a rare meeting of the Sabha has been held under some external compulsion. For practical purposes, the panchayat is identified with the office of the Pradhan and the role of the Pradhan is itself subsidiary to the bureaucratic functionaries. The poor respondents mention periods when enlightened Pradhans or even bureaucrats have been able to accelerate the implementation of these programmes or have been able to steer them more firmly in the direction of the poor. Generally, however, this is not the case. Benefits from programmes accrue to a group of people who are close to the Pradhan or the official machinery. Some of them acquire multiple benefits.

50. In the opinion of the villagers, devolution as implemented, may not have brought about development, but it has on the other hand reinforced the unequal access to power. References to the works are often accompanied by sneering remarks about the money which has gone down the drain, or has disappeared into the pocket of the pradhan and the block officials. Much of what comes from the government, they feel, is snatched away by the important people.

51. However, the same study concludes: `This rather negative assessment of omissions and commissions should not lead us to the conclusion that panchayats and local level planning have lost their attractiveness for the villagers. On the contrary, our survey of 397 villagers showed that an overwhelming 80 per cent of all respondents feel that the responsibility of village level development should be reposed with panchayats (84 per cent males; 77 per cent females). Only 9 per cent respondents (13 per cent males and 5 per cent females) thought that the Block should be responsible.

Of the respondents, when asked to choose between a variety of arrangements for evolving and implementing schemes and programmes at the village level, 79 per cent favoured stronger panchayats but with more accountable pradhans and 17 per cent favoured stronger panchayats and stronger pradhans. The verdict was clearly against the Block Development Officers who received only 4 per cent support.’

52. Village panchayats are involved in selection of beneficiaries for various Rural Development (RD) programmes. Out of a total number of 95 beneficiaries in a panchayat of Rajasthan between 1995/96 to 98/99 it was found that only 50 (52%) were identified as belonging to vulnerable categories:

Table-2

Vulnerability status of households benefiting from housing and loan schemes in a Panchayat in Dungarpur district

Vulnerability status	Number of households
Not at all vulnerable/ Very secure livelihood	20
Not vulnerable/ Livelihood secure	25
Vulnerable	27
Very vulnerable	23
Total	95

Thus at least in half of the cases benefits flowed to undeserving cases.

53. From these studies, it appears that though the ordinary village people feel optimistic about the potential of panchayats, they think that it has not brought the fruits of development to them. Corruption is singled out as the most important cause for the ineffective functioning of these institutions. Control which is exercised by the Sarpanch and Block Level officials over Village Panchayats and Gram Sabhas has not only buttressed corruption, but it has also led to pessimism that villagers on their own and at their level cannot change or improve things because of heavy dependence on elected functionaries and Block officials. The present system is, therefore, seen to have actually reinforced dominance and unequal access to power, besides rendering the villagers helpless and alienated.

Centrally Sponsored Schemes and Panchayati Raj Institutions

54. There is a plethora of Centrally Sponsored Schemes (CSS) being implemented by different Ministries and Departments of Central Government. As per the Constitutional mandate, in respect of 29 items of the Eleventh Schedule, funds have to be devolved on the Panchayati Raj Institutions for planning and implementation of schemes pertaining to the particular sector. In reality the involvement of Panchayati Raj Institutions with respect to these 29 items has been minimal in most States. They continue to be implemented departmentally.

55. In so far as the programmes of the Ministry of Rural Development are concerned there is some involvement of the PRIs in the implementation, monitoring and review of their programmes. However, in respect of CSS implemented by other Central Ministries, the involvement of PRIs is either non-existent or minimum.

Parallel Organisations and PRIs:

56. In some sectors there is people's involvement through parallel institutions like the Joint Forest Management (JFM) Committees, Village Education Committees (VEC), Water User Groups, etc. It is argued that a multiplicity of committees is a means of getting more benefits from the Government. The villagers see this as an opportunity to ensure the development of their villages through involvement of a large number of government departments. The bureaucracy too favours these committees as it is able to have a greater say in the implementation of the programmes through these committees. Committees also create a broader leadership base and provide an opportunity for more people to be involved in decision making through membership. The panchayats have to address several issues at the same time making their work onerous. Committees focussing on specific issues, be it education, health or forest management, would be able to take note of the specific objectives of the programme and deliver better results. It is expected that in the long run members of these committees would also get elected as members of the panchayats. The panchayat could act as coordinator for implementation of these programmes. In other words, though the link between these committees and the panchayats is somewhat tenuous, these parallel institutions are imperative for ensuring greater people's participation in the development process. Over time, the relationship between these people's institutions and the panchayats will become stronger.

57. Those on the side of panchayats would argue that benefits from user committee- managed natural resource projects, such as forests and watershed management, are not sustainable in the long term. After the source of funds from the project dries up, plantations disappear, committees are disbanded or abandoned and the livelihood base of the poor remains only marginally improved, if at all. Perhaps in some cases they create some sustainable social capital by raising awareness amongst the poor. However evidence suggests that most of the social capital created by projects is held by the rich and that in fact most projects have contributed to a further entrenchment of powers of the rich. Part of the reason given for involvement by Non Governmental Organisations (NGO) is to ensure the sustainability of the project by threading it into the fabric of local social and economic structure. Some NGOs have ensured the sustainability of some projects by creating participatory development and negotiating conflicts before leaving the village. This approach takes time and needs resources; hence the question of how to 'scale-up' this process to cover wider areas. Further, these success cases are drops in the ocean and they are not problem-free either. A respondent from RDT, an NGO in Andhra Pradesh, commented that there are a few villages in which the committees have the capacity to become partners of the government for development. But 60% of the institutions are not democratically elected. Another study of natural resource management projects found that after NGO support ranging from 7-12 years, 'the social organizations or community groups involved do not appear to have reached the stage yet where external support – whether operational or 'institutional' – is no longer required'.

58. Therefore in the light of conflicting arguments on both sides, there is need for a study of the institutional links between political decentralization through Panchayati Raj and administrative decentralization in the form of user committees promoted by the external donor projects. This is important because in several development projects (e.g. drinking water, health, watershed development and primary education) government has relied upon committees which are independent of panchayats. Often in the same region such as Uttar Pradesh hills, the World Bank has promoted different

committees, one for forests, a second for drinking water and a third for education and all these may be all distinct from panchayats!

59. Thus the present approach through user committees raises several questions about the links that exist and should exist between those committees and the PRIs: What should the role of PRIs be once natural resource management programme becomes a broad rural development effort rather than a narrowly technical programme? Should PRIs not be involved in coordinating these issues? Reasons are many to suppose that this would ensure the sustainability of development programmes.

60. First, they are responsible for development planning for the whole Gram Panchayat and would be the natural apex body for linking several development programmes into other objectives. Second, they are democratically elected and so reflect local needs and priorities.

61. A third critical issue is that it will be more cost effective for PRIs to be the apex linking body being one already so established for this function. The infrastructure is already there; they have the power to raise revenue; and labour will be cheaper.

62. At the same time it must be recognised that at present there appears to be greater satisfaction among the people from user committee-based administration than with panchayats. That such groups are smaller than the panchayats and function on consensus than legal authority could be one factor. Here below are results from a study in Madhya Pradesh and Rajasthan on this.

Results of a field study from Rajasthan and Madhya Pradesh

63. In three Panchayats in Dungarpur district, Rajasthan, a study was carried out to know what value people attribute and how they rank Panchayat as a local development body in comparison with other development activities in the villages. A cross-section of twenty villagers in each Panchayat were asked individually to rank development activities in their village based on which one they thought was “better”.¹ The outcome of the exercise in two Panchayats is presented Panchayat-wise below.²

Table-3

Ranking the value of different development activities in a Panchayat in Dungarpur District, Rajasthan

Activity	Score ¹	Most common explanations
Participatory Approach to Human and Land Resource Development (PAHAL) ²	33	All villagers get benefits in terms of labour. Land is developed to become more productive. A few people also mentioned that the transparency is high compared to other development activities.
Shiksha Karmi and Lok	47	Education is perceived to be the

¹ No further directions were given of “better”, but people were instead encouraged to explain their understanding of why some are better than others.

² The data from the third Panchayat was almost identical to the second and has therefore been left out.

Jumbish - education ³		gateway to the future. Uneducated people have fewer possibilities.
Women's savings group ⁴	66	Savings enable productive investments in assets of own choice (e.g. wells, land-leveling, livestock)
Farmer's Cooperative Society ⁵	8	Loans are provided that enable investments in crops. (Members are mostly larger land-holders)
Gram Panchayat	92	Individual benefits are few. Little transparency and corruption is high. Exception: One man said that it is a permanent structure and therefore valuable while other development activities are temporary.

¹ The score was arrived at by calculating the average of the 20 informants. The lower the score, the higher the value of the activity. No differences were found in ranking on the basis of gender, social group, education etc.

² PAHAL is a Government of Rajasthan's integrated land use management project located in Dungarpur district. It was funded by Swedish International Development Agency (Sida) till October 1999.

³ These projects are both aiming to spread and improve primary education in Rajasthan. Financial support was provided by Sida till 1998.

⁴ This was launched by an NGO, PEDO, in Dungarpur district. The project currently involves approximately 100 women's savings groups. The objective is to decrease dependency on money-lenders and enable women to make investments of their own priority.

⁵ Throughout India various cooperative societies and banks provide farmer members with short-term loans. The aim is to increase the capacity of farmers to make crop investments and ultimately increase agricultural output.

Results from a similar exercise in Ujjain district, Madhya Pradesh, are summarized below:

Table –4

Ranking the value of different development activities in a Panchayat in Ujjain district, MP

Activity	Score ¹	Most common explanation
Rajiv Gandhi Watershed Mission – land development ²	44	Many people got labour. Private land and village tanks were developed. Transparency is high. People can take part of decision-making
Farmer's Cooperative Society	65	Provides loans at a crucial time when crop inputs need to be purchased.

Gram Panchayat	90	Few individuals benefit. It is for the benefit of the elected representatives. There is no justice in selection of beneficiaries or prioritization of community works
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¹ The score was arrived at by calculating the average of the 20 informants. The lower the score, the higher the value of the activity. No differences were found in ranking on the basis of gender, social group etc

² This is a national scheme aiming to improve watershed management

64. The above table would show that the Panchayat is not seen as a very valuable organization by villagers; the main reason is perceived lack of individual benefits, also lack of transparency and lack of influence and a high presence of corruption. People place much higher value on other development activities which bring a larger number of individual benefits and are more transparent. In tribal Dungarpur district two women described the difference between participating in the women's savings group and the Panchayat:

“The savings group has a purpose. All women meet to deposit money and to decide on who can take loans. We will get benefits. There is no work for the individual in the Panchayat, and especially not for women. What will we gain from participating there? Whether we go or not does not make a difference.”

Conclusion

65. Consequent to the 73rd Constitution Amendment Act political decentralisation has taken place in almost all the States where elections have been held. However, progress on fiscal and functional decentralisation has been mixed. There are States which have taken steps to devolve funds, functions and functionaries to the PRIs. The process of devolution is at different levels of operationalisation across States. Surprisingly, the States of Kerala, Madhya Pradesh and Uttar Pradesh who have had little experience of decentralisation, have made the most fundamental changes in this regard. Further, it is imperative that the PRIs have resources to match the responsibilities placed on them. While State Finance Commissions have submitted their recommendations, very few States have taken the necessary steps to ensure fiscal viability of the PRIs. Yet, one can be hopeful that the experience of some States and some PRIs within States would provide the necessary impetus for greater devolution in other parts of the country.