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Democratic Decentralisation in the State of Uttar Pradesh: Experience,
Emerging Concerns, Challenges and Prospects

by

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"Decentralisation is a system in which there are many centers of Government, local and central, each with a recognised right of independent existence and functions"? Herman Finer.

I. INTRODUCTION

In order to make the system of local self-governance effective and efficient, a major portion of powers and duties were devolved through decentralisation. To empower local bodies, decentralisation has been adopted as a mode to disseminate decision-making power and the authority for implementation of those decisions to the people. The idea of decentralisation promulgates efficiency in the governance by holding them accountable¹ and responsive to the felt needs of people. It provides people especially excluded communities, the power to decide and participate in the decision making process. In order to achieve fair representation of the weaker sections in the local bodies, the Government of India has undertaken affirmative actions in the form of the 73rd & 74th Constitutional Amendments followed by the *Panchayats (Extension to Scheduled Areas) Act, 1996*².



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The structural and institutional factors and individual citizens are identified as the three prominent factors that can influence³ an individual's capacity to engage in collective decision making in local government. Structural factors are those that affect the capacity to participate or to be adequately represented in local governance. These factors can be categorized as gender, ethnicity, caste, religion, class and age. Factors affecting the capacity of disadvantaged groups to participate include educational levels, social biases etc. Institutional factors are those that can be seen in the institutional configurations that enable or disable individuals from influencing decision-making in local governance. These are not just mechanisms that affect the degree of representation in the daily functioning of local government, but also access to other institutions that help to secure a fairer and more adequate representation.

Individual citizen factors are those that address the agency of individuals and social groups as citizens possessing rights. They influence the degree to which these actors can express to agencies through their actions both within and upon local governments. Structural and institutional factors provide the opportunities for such agency, but can by no means ensure it. Taking up this dimension is to go beyond the notion of citizens as rights holders and to stress the importance of the decision to assert agency, to pursue their interests through the channel of representation in the institutions of local governance.

The citizens expect their government to be responsive to their needs, wishes and preferences. Accordingly, the objectives of development programmes of a government agency have to coincide with the felt needs of the people. If there is a question of

choice among multiple demands of various groups of people, then such choice must be made by the democratic process and not in an arbitrary manner. At one level there are the expectations about the congruence of governmental activities and the felt needs of people, such expectations are much more at the level of the Panchayati Raj Institutions (PRIs) and the municipalities as they are nearest to the people. Therefore, the public agencies in general and the local government institutions in particular must remain accountable for being responsive to the needs of the citizens they serve.⁴

The overall objective of the study was to identify the ways in which representation can be made more accountable in decentralised local governance. Further, it aims to investigate the degree to which different groups



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have been able to secure representation and the extent to which their representation is reflected in local government decision-making. Besides, it looks at ways and means by which the functioning of a system of decentralised local governance can better meet the needs and aspirations of those it represents and those it serves. The particular focus of the study is on the instruments available for making elected and administrative officials in local government accountable to those they represent and serve. An assumption underlying the study is that better representation can improve accountability and that greater accountability can encourage responsiveness to citizens' voices and thereby enhance the capability of individuals to make choices and to influence local government decisions towards desired actions and outcomes on the basis of those choices. For the socially excluded and marginalised amongst today's polities, this would represent a fundamental change in their political status.

II. GENEALOGY OF INSTITUTIONS OF LOCAL SELF-GOVERNANCE IN INDIA

A. The Institution of Panchayat

The Constitution provides for the constitution of Panchayats in every State, at the village, intermediate and district levels.⁵ It is the responsibility of the Legislature of a State, and not the federal government, to make legal provisions with respect to the composition of Panchayats provided that the ratio between the population of the territorial area of a Panchayat at any level and the number of seats in such Panchayat to be filled by election shall, so far as practicable, be the same throughout the State. Each of India's 28 states thus has its own Local Governance legislation, although laws are very similar in each state. In principle and practice, the involvement of political parties in Local Governance elections varies from state to state.

The Panchayats are situated in the rural areas of India. In 22 states there are three tiers in the Panchayati system, in one (Goa) there are two tiers, and in five (Jammu and Kashmir, Manipur, Meghalaya, Mizoram and Nagaland) there is one.⁶ They are not strictly hierarchically organised, rather there is a division of duties between them. There is a limited coordination role for higher levels of the Panchayati authorities. Rural councillors are elected for five-year terms. The elections for council leader can be direct or indirect, depending on state law. All the seats in a Panchayat are



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to be filled by persons chosen by direct election from territorial constituencies⁷ in the Panchayat area. The Legislature of a State may, by law, provide for the representation of certain individuals to the different levels of the Panchayats. All members of the

Panchayat, whether chosen through elections or not, have the right to vote in Panchayat meetings. The Chairperson of a Panchayat at the village level is to be elected in the way prescribed by each Legislature of a State whereas a Panchayat at the intermediate level or district level is elected by, and from amongst, the elected members thereof.⁸

In both rural and urban areas, the women members elected under the reserved⁹ places represent a ward like any other member. Six months prior to local elections, one-third of the wards are earmarked for women representatives. At the following election, these wards lose their women-only status, and a further third of the municipalities or panchayats wards are designated for women candidates only.

The superintendence, direction and control of the preparation of electoral rolls for, and the conduct of all elections to the Panchayats are the responsibility of the State Election Commissions. Subject to the provisions of the Constitution, the Legislature of a State may, by law, make provision with respect to all matters relating to, or in connection with, elections to the Panchayats (*Article 243K*).¹⁰ The flow of accountability and responsibility in PRIs has been depicted below in Figure I.

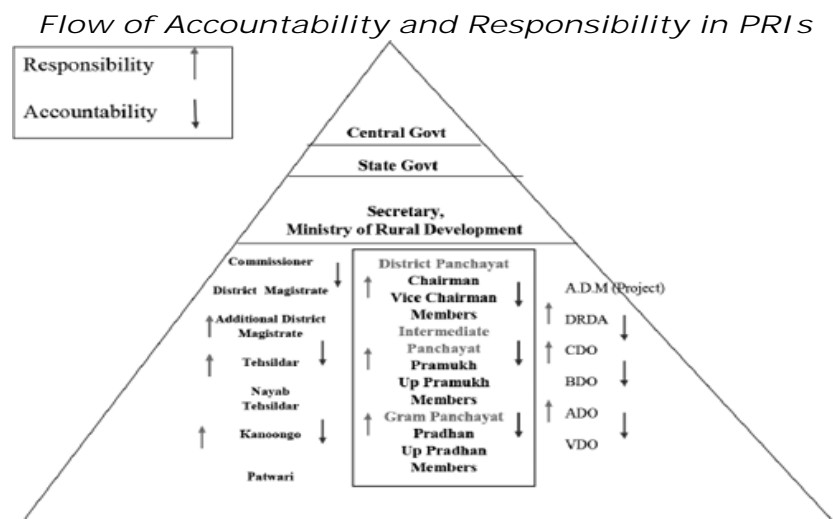



Figure I

B. The Municipalities

Article 243Q of the Constitution provides for the establishment of Municipalities in every State. The various types of municipality are: (i) a Nagar Panchayat (by whatever name it is called locally) for a transitional area, that is to say, an area in transition from a rural area to an urban area; (ii) a Municipal Council for a smaller urban area; and (iii) a Municipal Corporation for a larger urban area.¹¹

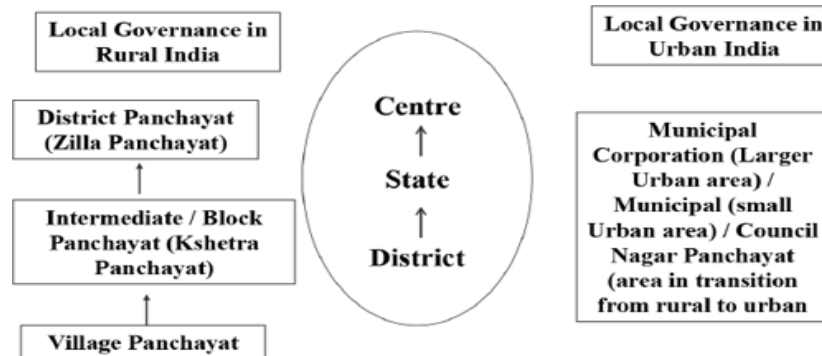
All seats in a Municipality are filled by persons directly elected from territorial constituencies, with the exception of such members as the Legislature of a State may provide for representation by law, such as persons having special knowledge or experience of Municipal administration. It is the Legislature of the State that decides how the Chairperson of the Municipality is to be elected.¹² Within the territorial area of

a Municipality, which has a population of 300,000 or more, Ward Committees, consisting of one or more wards, are constituted. It is the person who represents the Ward

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in the Municipality who shall act as its Chairperson.¹³ Article 243T lays down the same principle for the reservation of seats in the Municipalities as in the Panchayats. As in the case of the Panchayats, the responsibility for municipal elections rests with the State Election Commission and (subject to the provisions of the Constitution) the Legislature of a State, by law, makes provision with respect to all matters relating to, or in connection with, elections to the Municipalities.¹⁴ The outline Structure of Local-Governance in India has been depicted in Figure II.

Outline of Structure of Local Self-Governance in India




Bottoms up Approach

Figure II

III. REPRESENTATION OF SC/ST AND WOMEN IN LOCAL SELF GOVERNMENT

Fair representation of all sections has been the concern of the Constitution and with that view; provisions have been made for reservations of seats in favour of certain classes in the Parliament, the State Legislatures and at Panchayat level. The affirmative action for the Scheduled Castes and Scheduled Tribes deserves support because there have been so much of sufferings, discrimination and systematic exclusion of members of the above-mentioned disadvantage groups from valued resources, opportunities and careers. Further, women who have been deprived of the legitimate space in society and especially in the field of governance, their entry in

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the political arena was considered a taboo, only a few with political backgrounds venture into politics that too only at the state and national level. However, they still face considerable handicaps, which can be attributed to inadequate education, the burden of reproductive and productive roles, lack of self-confidence and the opposition of entrenched cultural and religious views. In order to support such groups, the Government has undertaken affirmative actions through amendments of the Constitution, providing for reservation for the excluded communities i.e. SCs and STs and Women in the Institution of Local Governments.¹⁵

Panchayats (Extension to the Scheduled Areas) Act, 1996, was enacted to extend the provisions of the Part IX of the Constitution dealing with panchayats to Scheduled Areas. Under the Act, Gram Sabha is competent to safeguard and preserve the traditions and customs of the people, their culture identity, community resources and the customary mode of dispute resolution¹⁶ approve development plans¹⁷ etc. It also provides that the Gram Sabha or the Panchayat at the appropriate level shall be consulted before making any acquisition of land in the Scheduled Areas for development projects and before resetting or rehabilitating persons affected by such projects in the Scheduled Areas.¹⁸

IV. MEASURES ADOPTED TO SECURE ACCOUNTABLE GOVERNANCE

Good Governance requires that those who exercise power are accountable to those from whom they derive it. Good governance requires that, along with empowerment of the local governments, we create mechanisms to enforce their accountability.¹⁹ Accountability means decision makers accept responsibility for their decisions. Good governance and management requires clarity about where responsibilities lie. Accountability means having information available and processes applied so that those responsible



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for decision-making can be called to account for decision.²⁰ In order to ensure accountability and responsiveness both formal and informal forms of accountability mechanisms are established, which are listed as under:

A. Formal Mechanisms

The formal form of accountability mechanisms are the ones that find mention in the Acts, Rules and Guidelines relating to Rural and Urban bodies of Local Self-Governance and they are established with a purpose of making Institutions of Local Self-Governance responsive and accountable to the felt need of the people are listed below.

The Prevention of Corruption Act, 1988 provides for penalties and punishments for public servants²¹ found guilty of corruption. Taking gratification, in order, by corrupt or illegal means, to influence public servant²², or for exercise of personal influence with public servant²³ or if Public servant obtaining valuable thing, without consideration from person concerned in proceeding or business transacted by such public servant²⁴ in such circumstances the persons found guilty of the said acts shall be liable for imprisonment for a period not less than six months. Criminal misconduct by a public servant shall make him liable for an imprisonment of a term not less than six months, which may extend to seven years and fine.²⁵

The Central Vigilance Commission Act, 2003 provides for the constitution of a Central Vigilance Commission to inquire or cause inquiries to be conducted into offences alleged to have been committed under the Prevention of Corruption Act, 1988 by certain categories of public servants of the Central Government, corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by the central Government, and for matters connected therewith or incidental thereto.

Under the *Penal Code, 1860*, any person who dishonestly misappropriates property shall be punished with imprisonment, which may extend to two years, or with fine, or with both.²⁶ Dishonest misappropriation



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of property possessed by deceased person at the time of his death shall make a person liable to imprisonment, which may extend to seven years.²⁷ Whoever commits criminal breach of trust shall be punished with imprisonment, which may extend to three years, or with fine, or with both.²⁸ If a public servant, or by banker, merchant or agent commits criminal breach of trust then such person shall be liable to imprisonment which may extend to ten years and fine.²⁹ If a public servant disobeying law, with the intent to cause injury to any person he maybe punished with simple imprisonment for a term, which may extend to one year or with fine.³⁰

The *Right to Information Act, 2005* has made the right to information a statutory right of every citizen. Right to Information includes the right to:³¹

1. Inspection of work, documents, records;
2. Taking notes, extracts or certified copies of documents or records;
3. Taking certified samples of material;
4. Obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

"Principle of Natural Justice" which forms the edifice of the " *Equality before the law and equal protection of the laws*" is instrumental in ensuring accountability.³² The third Principle of Natural Justice i.e. *Speaking Order* imposes a duty on the public officials to state the reasons for taking any action.

Article 243I stipulates that the Governor of a State shall, at the end of every fifth year, constitute a Finance Commission to review the financial position of the Panchayats and to make recommendations to the Governor as to the principles that should govern:

- 1) the distribution between the State and the Panchayats of the net proceeds of the taxes, duties, tolls and fees leviable by the State, which may be divided between them under this Part and the allocation between the Panchayats at all levels of their respective shares of such proceeds;



- 2) the determination of the taxes, duties, tolls and fees which may be assigned to, or appropriated by, the Panchayats;
- 3) the grants-in-aid to the Panchayats from the Consolidated Fund of the State - the measures needed to improve the financial position of the Panchayats and any other matter referred to the Finance Commission by the Governor in the interests of sound finance of the Panchayats.

B. Informal Mechanisms

The informal accountability mechanisms are those that are rooted in many processes ranging from good management practice that in turn make decision-making bodies at local level responsive and accountable to the grievance of the people. Citizens of Uttar Pradesh have developed some informal mechanisms also to ensure that their voices are heard and properly responded by local government and other institutions of local governance.³³

Research has brought to light incidences where self-help groups formed under various Centrally Sponsored Schemes and State Schemes in rural area in Uttar Pradesh are instrumental in the proper implementation of schemes in their respective

areas. Members of these groups are approaching BDO office and other departments not only for the proper implementation of existing schemes but also with the problems pertaining to insufficient fund for development activities, non-disbursement of salary/pension, misappropriation of funds by the Sarpanch/Officials etc. However, the main objective of these peer pressure groups is attainment of their limited interests. They take up issues, which they feel could help them in drawing political mileage.

Weaker sections of the society have organised themselves in the form of groups, associations, community based organisations and Mangal Dal etc. they are resorting to lobbying and pressure group tactics³⁴ in case of non-redressal of their grievances by the Municipal bodies. Besides, they aid and abet person from their community/caste/creed in local elections. Such kind of tactics helps in safeguarding the interest of their community.



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MPs in UP provide answers to the queries put forth by the public in the open space assigned in a local newspaper especially for this purpose. Citizens and disadvantaged groups are making use of this mechanism on frequent basis as this ensures that their voices are properly heard by the policy makers. This forum entertains queries on wide variety of issues like corruption, governance, sector specific issues etc. Supply of contaminated water in panchkula municipal area was resolved through regular queries in this particular section only.

V. VITAL ACTORS OF ACCOUNTABILITY

Civil Society (Media and NGOs) an important pillar in democracy was identified as one of the prominent actors that holds local government to account. From time to time they raise issues of public concern, opinions and grievances through newspapers, workshops, televisions, open meetings etc. this in turn provides government/elected functionaries an opportunity to keep themselves abreast with the latest happenings in and around their areas of operations. The study also brought to light that politicians take lead in raising issues of public interest to attain political mileage. Subsequently, NGOs and Media take them up and play an important role in building consensus thereby affecting decision-making at the policy level. However, the media is ignorant and arrogant and do not address the issues of local self-governance. Community based organisations have raised voices on the issues pertaining to the discrepancies found in the allotment of tenders, samples testing by independent agencies, supply of polluted water by the local bodies, unstable representation in Municipal Council etc. Similarly, Civil Society has raised voice on the poor quality of basic services provided by institutions of local self-governance.

At village/block level, it was realized that the committees/bodies like SHGs, MMDs, Yuvak Mangal dals etc. are acting as independent monitoring agencies that keep an eye on the implementation of the government sponsored programmes like anganwadis and ensure the quality of the services delivered by these institutions. At places, these SHGs in Uttar Pradesh have organised themselves under the umbrella of clusters and federations. These women are addressing women centric issues, organising anti-liquor campaign, promoting education for girl child, regularising activities of panchayats, and providing livelihood opportunities to its members.

VI. GRIEVANCE REDRESSAL MECHANISMS

Study revealed that the "Citizens" and "Disadvantaged Groups" are resorting to both formal and informal form of mechanisms, to tackle the



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circumstance that arises due to non-redressal of the grievance by the institutions of local self-governance.

Grievance Redressal Committee has been constituted at various levels of the Panchayats, to put a check on non-responsive and unaccountable practices. Meetings of grievance redressal committee take place at regular interval. It is an interface where people get an opportunity to place their problems directly in front of the Government officials of the concerned department. On an average, this committee entertains nearly hundred complaints every month and ensures quick redressal of these complaints. In the selected districts, locals and marginalised section of the society have filed complaints with the Vigilance and Anti-Corruption Department with a hope that they would help them in fighting for justice.

Collective bargaining is a new mantra for citizens and disadvantaged groups. In order to attract the attention of the policy makers/officials/elected functionaries towards the problems, they have united themselves under the umbrella of SHGs and Mangal Dals etc. They have brought not only the public grievances to the forefront but are also playing an important role in keeping track of different activities and programmes carried out by the government at the panchayat level. Citizens prefer to approach elected representatives as they reside within the circumference of their locality. However, it is a cumbersome task to approach officials as they hardly take interest in the problems of the general public. Further, the study also revealed that citizens and disadvantaged groups who have good political linkages/associations, hardly face any problem in getting their work done and services to such personals are delivered on time³⁵.

VII. CREATION OF CONDUCTIVE ATMOSPHERE

Democratic decentralisation can only be achieved in its true sense through regular holding of elections in the institutions of local self-governance. Article 243 E stipulates "Elections in panchayats shall be completed before the expiry of its duration of five years or before the expiration of a period of six month from the date of dissolution"³⁶.



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Parallel bodies formed at various levels in the institutions of local self-governance are executing similar kind of functions, assisting same-targeted audience that has even resulted in duplicity of records etc. For instance, the DRDAs could be merged with the Zila Parishad.³⁷ Technical expertise and other facilities of these parallel bodies should be made available to the PRIs and their supervision and control should vest with the PRIs to ensure better governance.

Wherever higher officials or front line workers have taken personal interest in development activities, funds allocated for the activity are also utilized in a proper manner and targets have been achieved on time. Further, this has accelerated the rate of growth of infrastructure. Interference of the state level political parties in the functioning of the Municipal Bodies and PRIs is adversely affecting the relations between the public and the elected representatives. The study revealed that the laws have been wrongly used to satisfy the demands of a particular section of the society

and this, in turn, is creating obstacles for the elected representatives and officials in discharging the functions and duties assigned to them.

Citizens are unhappy with the state of affairs of the institutions of local self-governance lack of stability combined with poor delivery of services has distorted the face of governance in the two states. Citizens as well as the officials in focus group discussions opined, "Power and positions have comfortably replaced the concept of social welfare/development". The amount spend by the candidates in contesting elections of local bodies is too high, this is even ten times higher than the limit prescribed by the election commission. Elected functionaries/Officials are only concerned about power and their position they have no inhibitions in adopting any means to acquire power and retain it. This practice has diverted the attention of the policy makers and implementing bodies from the issues of development. Election Commission, Vigilance Department, Anti-Corruption Agencies have proved incompetent in controlling these trends and practices.³⁸



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Existence of corruption in local self-government bodies is making the system ineffective. Study revealed the instances where laws have been misutilised to satisfy the demands of a particular section of the society. One such instance is allotment of tenders to the people with strong political associations.

The vigilance departments and anti-corruption department are in place but these departments also suffer from red-tapism. The Vigilance department is undertaking vigilance inquiries involving members of the Municipal Council and panchayats. The office of the anti-corruption bureau, entertains complaints not only from the municipal area but also from the block level and looks into corruption related matters. These departments are put in place with an objective to make the system transparent and responsive contrary to this the study revealed that many cases of corruption are pending with these departments and no affirmative action has been taken despite constant persuasion on the part of media, citizens and non-government organisations.

The study has revealed that mechanisms have worked best in the cases where citizens have organised themselves in groups and formed associations (Trade Associations, Welfare Associations, SHGs, MMDs and Panches Sangathan etc.). The groups with high level of awareness have proved successful in enforcing accountability on the elected representatives and officials.

VIII. CONCLUSION AND RECOMMENDATIONS

Decentralisation has emerged as one of the ways that can make the system accountable towards the needs of the people. However, the administrative structure is hampering the process of decentralisation as the result of which the benefits of decentralisation have not percolated to the lowest rung. The Government officials use the veil of secrecy as the most powerful weapon and keep everything to themselves thereby restricting the flow of information to the public. This practice at times leads to failure of formal and informal mechanisms adopted to instill accountability and responsiveness in the system.

The ways that can help in making representation in local bodies more accountable and responsive to the felt needs of the people are listed below. The conclusions are drawn on the basis of comprehensive interaction with the Public, Market, Civil Society and Citizens.



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- Capacity building of the elected representatives and officials of these institutions should be given high priority with special emphasis on building the capacities of women, SC/ST and backward classes. This should be a phased out endeavor i.e. Pre, during and Post-Election phase. Broadly these trainings shall cover issues relating to quorum, micro-planning, maintenance of registers, filing of nominations etc.³⁹
- The study highlighted that the rural women are hesitant to attend training programmes along with men. Therefore, separate training programmes should be arranged for such women participants.
- Minimum Qualification should be fixed for the elected representatives in the Institutions of Local Governance.
- Participatory planning and budgeting could be introduced as one of the vital components in the institutions of local self-governance.
- Media and NGOs have been identified as key players in enforcing accountability on the institutions of local government and other institutions of local self-governance.⁴⁰
- Independent agencies/private agencies should be given the task to monitor the development activities undertaken by the Pradhan in their respective areas and these agencies should be made responsible for conducting the audit of the accounts.
- PRIs should be associated with the preparation of standards and norms for audit and accounts and the emphasis should be on fund management and fund tracking, rather than just on fund flow, to ensure greater accountability.
- In order to ensure that the local government bodies perform their functions effectively and efficiently it is essential that powers should be devolved to them as per the constitutional mandate.
- If elected bodies are to function as institutions of local self-government it is imperative to adopt activity mapping i.e. a clear demarcation of the funds, functions and functionaries devolved to the local self-government bodies.
- Existence of parallel bodies that have been constituted to plan and execute projects in the areas, which fall within the domain of local bodies, is hampering the growth of PRIs and Municipal bodies as institutions of local self-governance. The existence of these parallel bodies is against the mandate of the 73rd and 74th Constitutional



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Amendments, which empowers local bodies to plan and execute development programmes.⁴¹ Therefore, either these bodies should be merged with the PRIs or these departments/bodies should be abolished.

- Secretive administrative structure is hampering the process of decentralisation as a result the benefits of decentralisation have not percolated to the lowest rung. The Government officials use the veil of secrecy as the most powerful weapon and keep everything to themselves thereby restricting the flow of information to the public. Therefore, there is a need to restructure the administrative set-up in

order to ensure devolution of powers to institutions of local self-governance.

- In order to empower the gram sabha and ensuring a minimum agenda for discussions in the gram sabha meetings, Constitutional amendment can be brought about on the lines of *Panchayats (Extension to the Scheduled Areas) Act, 1996 (PESA)*.⁴²
- As far as representation of Backward Classes is concerned there needs to be a uniform system across states as the Constitution has left it to the States to decide the proportion of reservation for such classes. Therefore, it is important to devise a uniform system of suitable reservation for backward classes across various States.
- Citizens as well as the functionaries responsible for the implementation of the Act should be made aware of the laws. Further, the State enactments of PESA are not reflective of the Central enactment, as the States have curbed the powers of the Gram Sabha and Panchayat at the appropriate level. Therefore, in order to truly empower PRIs in Schedule Areas state enactments should be made in conformity with the Central PESA.
- In order to strengthen the status of representation to excluded/marginalised communities the reservation for these communities should be extended to two-terms.
- Over 1 million women have gained representation in local bodies across India through the provision of 33% reservation for women. This has led to their increased participation and in certain States



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they have crossed the 33% mark but in many they still are way below the mandated percentage. Bihar has already reserved 50 per cent seats for women in institutions of local governance. Madhya Pradesh has also announced that 50 per cent seats will be reserved for women at all levels of the Panchayati Raj bodies. In order to provide appropriate reservation to women in local self-governance bodies the percentage needs to be raised to 50%.

- There still exists a big gap between legality and reality. State enactments have not adhered to the mandate of the Constitution and the main power is exercised by Administrative Authorities and local bodies.⁴³ This is reflected in the practice of states whereby they devolve functions but not funds and functionaries. In order to make the institutions of local-self-governance effective and efficient, States should adhere to the mandate of the Constitution in letter as well as spirit.
- Substantial efforts need to be undertaken to empower the Gram Sabha. This would ensure that the citizens who are one of the key stakeholders could hold the elected representatives at the panchayat level accountable for fulfilling their responsibilities and duties.
- States should provide for Social Audit in their respective enactments. The gram sabha/ward sabha should be encouraged to undertake social audit of panchayats. NGOs and the CBO should undertake the responsibility to mobilize and support the local community in undertaking social audit. Further, formal audit should consider the findings of the social audit and vice versa⁴⁴.
- The funds which institutions of local-self-governance receive should be directly given to the panchayats and they should not be channelised through the State Governments. The study revealed that the fund allotted under various schemes

are not sufficient to satisfy the needs of the people and moreover the impact of all these schemes is negligible, therefore, Central & State Government sponsored schemes could be clubbed into one and the consolidated amount should be sanctioned to all the villages. Villagers should be given the right to decide how and where they want to spend the funds.

- The State Panchayati Raj Acts contain certain provisions, which empower the State Government to dissolve the Panchayats, the Sub-Divisional Magistrate has been given the power to suspend Panchayati Raj functionaries, cancel or suspend any resolution of the



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Panchayati Raj Institutions, inquire into the affairs of the Panchayats etc. Such provisions in the State Panchayati Raj Acts undermine the position of the PRIs. In order to empower the PRIs such powers should be vested with an independent body like the Ombudsman⁴⁵ or any other independent authority, which can be constituted for this purpose at the State level.

- There is an emergent need to sensitise the media in relation to issues of accountability, responsiveness and representation in institutions of local self-governance. To achieve this objective a "One-day Consultative Meet" should be organised along with local NGOs.
- Open forum acts as a platform for women to interact with system managers and helps them to put forth their grievances and concerns before the policy makers. On similar lines *Open Forums for SC, ST and other marginalised communities* should also be organised in order to lend a voice to their needs and aspirations.
- In order to ensure that the Judiciary takes a proactive role in the arena of local-self-governance a "three-day workshop especially for Judges" should be conducted in countries where institutions of Local Self-Governance are in place. This would not only sensitise the judiciary in relation to institutions of local self-governance but would also make it accountable and responsive to the needs of the people.

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¹ The veil of secrecy has been the most powerful weapon in the hands of public servant, which they use to keep everything to themselves and keep the public away from the information. Therefore, to put a check on such practices, government devolved right and duties to the institutions of the local self-governance.

² The purpose of decentralisation was to bring governance at the doorstep of the people and secure the participation of public at large. This to an extent has instilled transparency and accountability in the functioning of institutions of local self-governance. Institutions of local self-governance provide important opportunities to the citizens of the country to participate in the governance and influence the process of decision-making.

³ They not only provide a framework for analyzing factors that shape the nature and degree of representation in decentralised local governance in a particular context, but also assess the impact of measures designed to improve representation.

⁴ Buddhadeb Ghosh, *Accountability of Panchayats: Ends and Means, Decentralisation and Local Governance*, Orient Lonman Private Ltd., 2005, p. 257.

⁵ See Article 243B.

⁶ States with populations of less than two million are not required to adopt the three-tiered system.

⁷ For this purpose, each Panchayat area is divided into territorial constituencies in such a manner that the ratio between the population of each constituency and the number of seats allotted to it shall, to the extent possible, be the same throughout the Panchayat area.

⁸ See Article 243C.

⁹ One-third of all seats are reserved for women. There are also reserved places for Scheduled Castes and Scheduled Tribes, determined by their proportion of the local population. One third of the places reserved for scheduled castes and tribes must be allocated to women. Provisions are also made for the offices of the Chairperson to be reserved for these groups. See Article 243D.

¹⁰ UNDP Bangkok Regional Office, Local Democracy in Asia: Representation in Decentralised Governance - Concept and Issue, 2005.

¹¹ In two states, West Bengal and Madhya Pradesh, a mayor-in-council system has been introduced in urban areas. These mayors are directly elected for five years with executive powers. In other municipal bodies, mayors are elected for one year at a time. In some, they are elected for two years - half the full term of the council. Where there is a mayor-in-council system, a cabinet-style executive committee is appointed by the mayor.

¹² See Article 243R.

¹³ See Article 243S.

¹⁴ See Article 243ZA.

¹⁵ Article 243D and Article 243T provide for reservation of seats for Scheduled Castes and Schedule Tribes in proportion to their population in local bodies. Reservation on rotational basis is not confined to membership but extends to the offices of Chairpersons. Provision is also made for providing minimum one-third reservation for women in all seats and offices at all levels as well as among those provided for Scheduled Castes and Scheduled Tribes. Such seats may be allotted by rotation to different constituencies. In relation to offices of chairpersons, State may by law make provision for similar reservation in the local bodies.

¹⁶ Section 4(d) - Panchayats (Extension to the Scheduled Areas) Act, 1996 (hereinafter referred to as PESA).

¹⁷ Section 4(b) - PESA.

¹⁸ Section 4(i) - PESA.

¹⁹ Lok Satta Report, Empowerment of Local Governments, Foundation for Democratic Reforms, 2004, p. 76.

²⁰ Good Governance in Local Self-Government, Dr. S.S. Dhariwal, Deep and Deep Publications Pvt. Ltd, 2004, p. 6.

²¹ Under Section 21 of the Penal Code, 1860 (hereinafter referred to as IPC, 1860) officials in the institutions of local-self governance also fall within the purview of public servants.

²² Section 8 - Prevention of Corruption Act, 1988 (hereinafter referred to as the PC Act, 1988).

²³ Section 9 - PC Act, 1988.

²⁴ Section 11 - PC Act, 1988.

²⁵ Section 13 - PC Act, 1988.

²⁶ Section 403 - IPC, 1860.

²⁷ Section 404 - IPC, 1860.

²⁸ Section 406 - IPC, 1860.

²⁹ Section 409 - IPC, 1860.

³⁰ Section 166 - IPC, 1860.

³¹ Section 2(j) of Right to Information Act, 2005 (hereinafter referred to as the RTI Act, 2005).

³² See Article 14 of the Constitution of India.

³³ People in Uttar Pradesh are free to organise themselves in groups and can form associations. Trade Associations, Welfare Associations, SHGs and MMDs etc. keep a check on local bodies. SHGs and MMDs are functioning effectively in many blocks of the State. Preparing food for Anganwaris, keeping check on the quality

of the food supplied under the mid-day meal schemes, micro planning for Panchayat level activities etc. are some of the activities undertaken by these groups. In role of self-help groups is limited to that of income generating activities they are not participating in any kind of social-political activities neither they have been encouraged to do so by government and non-government bodies.

³⁴ For example, recalling of office bearers of Gram Panchayat as well as Mayor, through secret ballot, which has been provided under the local government legislations in Chhattisgarh.

³⁵ The general trend in this regard is that the grievances of people with strong political backing are addressed on time and on priority basis whereas the complaints of the people with no political background are kept pending on the tables of officials. To put a check on such practices, in U.P., grievance redressal cells have been constituted but no formal or informal complaint redressal mechanism of such kind is in place in the state of Chhattisgarh as the problems of the public are neither heard nor dealt with.

³⁶ Subsequent to the 73rd Amendment Act, states were directed to pass state Panchayat Acts, within a year and to hold elections within a further period of one year. Although the Acts were enacted within the stipulated period, elections in a number of states were not held. RLEK filed Public Interest Litigation in the Supreme Court in 1995 [*Rural Litigation and Entitlement Kendra v. Govt. of U.P.*, (1997) 9 SCC 215] against the states of Uttar Pradesh, Himachal Pradesh, Orissa, Tamil Nadu and Bihar as well as the union government. Supreme Court upheld the plea of RLEK and ordered these states to dissolve the illegally continuing Panchayats and hold fresh elections. The Supreme Court held that "It is necessary to emphasize that various clauses of Article 243 are to be followed in letter and spirit. The concerned states cannot be permitted to withhold elections of Panchayat except in cases of genuine supervening difficultiesprevailing in the state for which elections of the Panchayat cannot be held within the timeframe. It will be unfortunate if the concerned states remain insensitive to the constitutional mandate of holding the election of Panchayat in time..."

³⁷ Some States have already done.

³⁸ The Constitution of India under Article 32 provides the citizens with the power to file Public Interest Litigations in the Supreme Court in case of infringement of Fundamental Rights conferred by Part III of the Constitution. Article 226 has a wider scope whereby the High Courts can be approached not in case of violation of Fundamental Rights but also other legal rights. Further, under the Right to Information Act, 2005 citizens can secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority.

³⁹ Some non-governmental organisations like RLEKs organises legal literacy camps address issues of concern to the community like Human Rights, Rights of Women, Indigenous Communities, Right to Information Act etc.

⁴⁰ This has been attributed to their ability to reach and influence a large section of the society; therefore, effort should be made to strengthen such institutions.

⁴¹ In fact, the functions of these parallel bodies are almost similar to the functions of PRIs and Municipal bodies, which have resulted in widespread duplicity of records.

⁴² The amendment provides the Gram Sabha, first to approve the plan, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the panchayat at the village level and secondly to be responsible for the identification or selection of persons as beneficiaries under the poverty alleviation and other programmes' and 'every panchayat at the village level shall be required to obtain from the gram sabha a certificate of utilisation of funds by the panchayat for the plans, programmes and projects'.

⁴³ The institutions of local self-governance have no authority and only responsibility.

⁴⁴ To provide a framework within which social audit might be undertaken, social audit policies and procedures may be prepared in each state through intensive consultations with the civil society organisations and others.

⁴⁵ An Ombudsman is a body, which ensures accountability in the working of public officials. This body carries out investigations as well as enquiries in respect of any action involving corruption or maladministration or irregularities in the discharge of administrative functions.

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