What Ails Panchayati Raj?

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Two decades have elapsed since the 73rd Constitutional Amendment Act institutionalised panchayati raj as the mandatory third tier of governance in India. Yet due to a lack of extensive devolution of the three Fs – functions, functionaries and funds – most panchayati raj institutions still operate as poor adjuncts to the bureaucracy and higher level governments. This paper reviews the process of devolving power to them and pinpoints the main obstacles in the path of establishing truly self-governing local bodies in rural areas. On the basis of this, recommendations are made to make them more effective.

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1 Introduction

The debate on the form of democracy to be followed in India dates back to the constituent assembly. It arose because India is a large and diverse country and there was the problem of ensuring effective and widespread participation of its citizens in public affairs. M K Gandhi had initially thought of autonomous village republics, which would be federated into a national government having authority and jurisdiction delegated upwards to it from below (1959). He spelt out the formal mechanism for this to his biographer Louis Fischer (1982),

> There are seven hundred thousand villages in India each of which would be organised according to the will of the citizens, all of them voting. Then there would be seven hundred thousand votes and not four hundred million votes. Each village, in other words, would have one vote. The villages would elect the district administration; the district administrations would elect the provincial administration and these in turn would elect the President who is the head of the executive.

This would have been a system in which direct voting would take place only at the village level and all the higher levels would be beholden to the villages. This was similar to the originally envisaged Soviet system proposed by the communists in Russia wherein all power was to vest in the small Soviets or workers or cultivators and delegated upwards to higher levels.

However, this was a radical departure from the centralised system of top-down governance that had been put in place in India by the British, which had culminated in the Government of India Act of 1935. The Congress Party had participated in the elections and the governments formed under this Act and so most of its leaders were in favour of a centralised system of governance. Initiating a bottom-up system of governance as envisaged by Gandhi would have required completely discarding the prevailing British system and setting up a corresponding new bottom-up administrative structure. Consequently, after considerable debate, the Constitution enacted by the constituent assembly in 1949 adopted the framework of the Government of India Act of 1935, which had a centralised system of governance with most powers concentrated with the union and some at the provincial level, but there was no provision in it for local governance at the village level (CAD 1949). Instead, the organisation of panchayats was put in Article 40 as a directive principle of state policy.

This is how a situation was created where the need for devolution of powers to the third tier of governance at the local level arose very soon. The results of the top-down community development programme initiated in 1952 were unsatisfactory, and this led to the formation of the Balwant Rai Mehta Committee to suggest means of effective local self-governance in 1957. This committee categorically recommended the devolution of functions, functionaries and funds to a three-tier panchayati raj system, and the report was accepted by the National Development Council. There were many more committees making similar suggestions after this, but it was only in 1992, after an aborted attempt in 1989, that the 73rd Constitutional Amendment Act (CAA) inserted panchayati raj as Part IX of the Constitution, establishing it as a mandatory third tier of governance. The main reason for the reluctance to transfer powers for local self-governance after Independence was the same as that at the time of framing the Constitution – it required a radical restructuring of prevailing governance institutions to ensure greater participation of the people. It is in this historical context of reluctance on the part of centralised governments to allow local self-governance that devolution to panchayati raj institutions (PRIs) has to be critically evaluated.

2 A Theory of Devolution

There has been a significant trend worldwide towards regionalism in government, resulting in a widespread transfer of powers downwards towards regions and communities since the 1990s (Keating 1998). This process, which involves the creation of new political entities and bodies at a sub-national level and an increase in their content and powers, is known as devolution (Rodriguez-Poes and Gill 2003). Devolution has been characterised as being made up of three factors – political legitimacy, decentralisation of authority and decentralisation of resources (Donahue 1997). Political legitimacy here means a mass demand from below for the decentralisation process, which is able to create a political force for it to take place. In many cases, decentralisation is initiated by the upper tier of government without sufficient political mobilisation for it at the grass-roots level, and in such cases the decentralisation process often does not fulfil its objectives. Thus, political legitimacy arising from active mass participation at the lower level is the most important factor in determining the extent and success of devolution. This requires an institutionalised democracy to be in place, which provides for the free expression of people's will. The extent of this popular demand for devolution is determined by historical, cultural, societal and economic factors.

The next important factor is the decentralisation of authority required to be able to govern over a subregion or community along with decentralisation of control over resources to be able to exercise this authority in an effective manner. In many cases, decentralisation of authority is not accompanied by decentralisation of resources, resulting in weak devolution due to the lack of political legitimacy at the grass roots.

The post-Independence Indian context amply validates this theory. Historically, the level of mass participation in governance has been low, and so there was not enough support for the radical bottom-up system of democracy that Gandhi suggested. Nor was there mass support for the Soviet system of the communists. The social and economic exclusion of a vast section of the people meant that even though a formal centralised democratic framework was in place, these marginalised sections could not participate freely in the democratic processes (Chandra 1988). Despite substantial economic growth in the first decade after Independence due to the import substitution thrust, the benefits of this did not percolate to the vast majority of the poor. The historically strong forces of social and economic exclusion falsified the expectations of the planners, who thought that macroeconomic growth would trickle down to the poor (Chakravarty 1987). Consequently, there was considerable dissatisfaction among the people from the mid-1960s as the economic growth rate slowed down and the economic condition of the poor deteriorated further. Thus, peasant struggles, industrial workers' strikes, student movements and environmental mass movements began to proliferate. This created a mass upsurge from below for better governance, which finally culminated in the CAA of 1992.

Though the CAA made detailed provisions for devolution of powers and funds to PRIs, it did not address the problem of the conflict that would arise between a centralised system and a new local government system. In most places political mobilisation at the grass-roots level was not strong enough to take advantage of the CAA to pressure state governments to devolve enough authority and funds to panchayats. State governments are starved of funds due to the Indian federal fiscal system being skewed heavily in favour of the union government. So they are reluctant to give away their meagre own resources to panchayats and even exert considerable control over the funds devolved under centrally sponsored schemes (CSS) directly to PRIs. The biggest structural problem was that ideally the PRIs should be planning and implementing their own work at their level, but this comes into conflict with the centralised top-down administrative and planning process. So the devolution process in India has remained a weak one, as predicted by the theory above.

3 The Sandwich Effect

A detailed analysis is necessary to explain the reluctance of state governments to implement the provisions of Part IX of the Constitution in letter and spirit. The Constitution has left it to the states to enact legislation and effect administrative changes to implement its provisions because of the delicate balance that is there in it between the powers of the union and the states. The union government has much more powers than the states and there has been a tendency on its part to acquire more powers through legislation. One very important example is the enactment of the Environment Protection Act 1980, which took away the lucrative power to divert forestland for non-forest uses from state governments. Since the union government is itself not devolving important powers to the states, the latter are wary of ceding what little powers they have to PRIs. The political power of the states vis-à-vis the union government is much greater than that of the PRIs vis-à-vis the state governments. So state governments have consistently ignored the directives of the union government to implement the constitutional provisions on panchayati raj without facing much opposition from PRIs and their elected representatives.

The most important inhibiting factor against devolution, as mentioned earlier, is that the state governments have limited fiscal powers and are strapped for funds most of the time. In the 15 years from 1989 to 2004, the fiscal deficit of the states increased due to a higher debt burden, and interest payments constituted the single largest item of revenue expenditure (Dholakia and Karan 2005). So they have to rely heavily on grants and transfers of their share of the taxes levied by the union government. This too makes them cautious about devolving fiscal powers and funds to PRIs, as it will further erode their financial buoyancy.

The union government has compounded matters by tying up the transfer of substantial funds in innumerable CSS. The contribution of the union government to state governments in 2001 was 52% as direct transfers, 30% as support to state plans, and 18% in the form of CSS (Saxena 2004). The CSS funds were 45% of states' own resources. With the initiation of the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) in 2006, the proportion of tied transfers through CSS has gone up substantially to 75% of states' own resources. Consequently state governments are starved of funds and can initiate little development on their own. Given this situation, there is an understandable reluctance to constitute state finance commissions (SFCs) as mandated, and after that implement their recommendations on funds devolution.

Finally, the union government has formulated guidelines that a substantial portion of the funds for the CSS is to be spent by PRIs and rigidly restricted the interference of state governments (Planning Commission 2011). However, the central departments overseeing the implementation of these CSS have not always been very diligent in ensuring that these guidelines are adhered to. Consequently, state governments have got around the CSS provisions by retaining line control of the bureaucracy of the various departments responsible for the implementation of the CSS and have thus been able to indirectly have a say in the spending of these funds. This is an important reason for the lack of adequate devolution of activities and functionaries to PRIs.

This has been highlighted by the second administrative reforms commission (ARC) (GoI 2007), which has noted the reluctance of state governments and the bureaucracy to let PRIs become independent self-governing entities in accordance with the "principal of subsidiarity," which states that any activity that can be done at a lower level should not be delegated to a higher level. The ARC report also blames the skewed concentration of political power at the higher levels for the prevailing sorry state of affairs.

4 A Separate Ministry

The union Ministry of Panchayati Raj (MoPR) was established on 27 May 2004 to specifically look after the implementation of the provisions of the CAA and speed up the process of devolution to PRIs. The ministry has carried out various capacity-building programmes, conducted research and evaluations, and instituted reward schemes to promote devolution. It has also organised ministerial and lower-level conferences to cajole state governments towards more devolution. The MoPR conducts two annual independent assessments of the progress of state governments on this roadmap – the state of the panchayat reports (SoPRs), and the calculation of a devolution index for the panchayat empowerment and accountability incentive scheme (PEAIS).

The first SoPR was published by the MoPR for 2006-07, and it noted,

> A "big bang" approach was recommended for overcoming the sluggishness in the devolution of functions, functionaries and funds (3Fs) to the PRIs. The logic was that if substantial functions, functionaries and funds were devolved at one go with accompanying investment in capacity building and training of staff and elected representatives to handle the greatly increased responsibilities, then this big bang would blow away much of the inertia and inexperience that were proving to be the major hurdles. The success of PRIs in Kerala where this approach was first followed was held up as an example (MoPR 2006).

The SoPRs for 2007-08 and 2008-09 were prepared independently by the Institute of Rural Management, Anand. These too advocated the big-bang approach as they found that there was still considerable resistance in both the central ministries and the state governments to devolve the 3Fs and more importantly create an alternative administrative system under the executive control of the elected representatives of PRIs (IRMA 2008, 2010).

The reports concluded that it was difficult to say that panchayats had evolved into institutions of self-governance as the control of functions, functionaries and funds still remained substantially with state governments. Evidently the big-bang approach had not been replicated in most states. Though there were legislative and executive orders for devolution of functions, there was no accompanying devolution of functionaries and funds, thus rendering the orders ineffective. So much so that even the MGNREGS, which has inbuilt provisions for local governance and audit, was being implemented on the directions of the bureaucracy and state governments without much involvement of the people. Other CSS with inbuilt PRI participation, like the Sarva Shiksha Abhiyan, the Integrated Child Development Scheme and the National Rural Health Mission, had been similarly weakened.

The reports also say that SFCs have not been functioning independently to strengthen the finances and databases of PRIs. Despite continuous efforts by the MoPR and several recommendations by the 11th, 12th and 13th central finance commissions (CFCs), states have neither standardised the accounting systems and databases of PRIs to provide the CFCs and SFCs with a solid foundation for recommending devolution of funds nor created panchayat windows in the budgets of the departments from which functions are to be devolved to PRIs (Rao et al 2011).

The MoPR introduced the PEAIS in 2005-06 to encourage state governments to bring about greater devolution of powers to panchayats. The basis for the evaluation is a devolution index that is estimated by an independent agency. The estimation work was done by the National Council for Applied Economic Research up to 2008 (NCAER 2008) and by the Indian Institute of Public Administration after that. The estimate is based on independent field verification of the data sent by the states and so is more authentic (MoPR and IIPA 2011). Interestingly, while the national average index value for framework and functions are 51.32 and 50.55, respectively, for finances and functionaries they are 37.67 and 34.67, respectively. Thus, while some compliance has been achieved on putting in place the legal and executive framework and passing orders for the devolution of functions, this has not been accompanied by a corresponding devolution of funds and functionaries.

5 Conclusions

The central problem that has dogged the establishment of truly autonomous local governance through effective devolution to PRIs is the reluctance of state governments to part with the powers of governance that they enjoy. Even the better performing state governments of Kerala and West Bengal have retained substantial control of functionaries and funds and made PRIs subservient to them. Most states have just completed the formality of devolving functions and mapping activities through laws, rules and executive orders but have not followed this up with effective devolution of functionaries and funds.

The main reason, as explained, is that the state governments have limited powers compared to the central government in the Indian system. If PRIs at the district level and below were to become autonomous local governments with full control of the departments that are to be devolved to them as per the 11th schedule, these departments would have very little left to do at the state level as the bulk of their staff and activities are concentrated at the district level and below. It is true that overall guidance would still be provided by the higher-level staff of the state departments, but this would not compare with the huge responsibility currently being shouldered by them in overall planning and implementation right down to the ground level. In other words, the ministers, secretaries, directors and the like in charge of these departments at the higher levels would lose considerable power. Moreover, control over a substantial portion of the state tax revenue also would go to PRIs, and the state governments would be left with even less financial leeway than they have at present.

This crucial clash of political interests between state governments and PRIs remains unaddressed, and the reality is that awareness and mobilisation of politicians and people at the PRI level is much less than that of state-level politicians. What little awareness, governance skills and political power have been garnered by politicians at the PRI level is due to the management of works and funds under the CSS, especially the MGNREGS, and this too has not been without conflicts with state-level political leaders and the bureaucracy. Given a situation in which CSS funds are equivalent to 75% of a state government's own revenues, these funds are a major bone of contention between state governments and PRIs. By keeping PRIs starved of infrastructure and manpower, state governments effectively ensure that the expenditure of CSS funds remains in their control.

Consequently, for effective devolution to take place and true local self-governance to materialise in the long run, there has to be a three-way dialogue between central, state and PRI-level politicians to allay fears among state-level players that they will be marginalised. A drastic reorganisation and redesigning of the political and administrative system at the state level is required to accommodate strong district and lower-level PRIs on the principle of subsidiarity. Otherwise, the Model Panchayat and Gram Swaraj Act will never be accepted by state governments, which fear they will be made redundant. Ultimately, there has to be greater political pressure from the people at the grass roots, as this is what has brought about the better devolution in Kerala and West Bengal.

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