

Draft Model Panchayat and Gram Swaraj Act

The Decentralization Community of Solution Exchange, an initiative of the United Nations in India, provides a platform to strengthen the Institutions of local self government- Panchayati Raj institutions and Municipal Bodies – to bring about more transparent and participatory governance, more effective local development and better delivery of services. It connects people with similar concerns through email discussion groups and face to face interactions. The summary of one of the discussions held in the previous month:

Ministry of Panchayati Raj has formulated a **Model Panchayats and Gram Swaraj Act** (MPGSA) for states. The Ministry invited members to give their comments and suggestions. The specific comments offered by respondents are given below.

Suggestions on DPC and Planning

- One of the primary tasks of the District Planning Committee (DPC) would be capacity building for decentralized planning. This provision needs to be incorporated. Item 88 (1) could read as: The DPC shall have a planning office as the Secretariat with a full time Vice Chairman.

- Item 88 (2): The word, 'elected members of the District Panchayat' excludes the members of Gram and Block Panchayats. It could be changed to members of the Panchayats at the district level. Item 88(3) could be modified to read that MPs and MLAs shall be special invitees to DPC meeting and not members by nomination.

- There is a provision for "persons representing the State Government" in the DPC. This provision could be deleted.

- Item 88(8) could read as: There shall be planning office headed by the Vice Chairman to assist the DPC, who shall be appointed by the District Panchayat. The qualification, **expertise and experience of the Vice Chairman of DPC** shall be decided by the District Panchayat.

- Item 91 reads "A dedicated centre in every district shall be set up to provide assistance to the Panchayats for preparation of plans". Since the assigned role of the DPC is to provide assistance to the Panchayats for the preparation of plans, the role of a 'dedicated centre' is not clear. DPC should have the power to consult any technical and professional individual/institution.

- The key word in 88(6) is not about DPC creating a draft plan, actually it should be DPC consolidating the plan.

- For intra-Panchayat sharing and exchange of plan proposals, the Village Panchayats have no role under Section 33(6) while Intermediate Panchayats have also been denied any scope to know plan proposals of the District Panchayat. This should be amended.

- Section 36 relating to Parastatals should be deleted altogether as they continue to exist for non-amending the concerned state Act. Removal of such parastatals is the executive responsibility, may not crowd the legislative area.

Gram Sabha/Ward Sabha

- Along with the provision of recall [item 58(A)] there could be another provision of losing membership for chairpersons/ members for not convening the Gram Sabha/Ward Sabha consecutively for two times. In [item 67(4)] there is mention about performance audit report to be presented in the Gram Sabha. The details of its composition and activity need separate description.

- Gram Sabha and Ward Sabha cannot be regarded as an administrative set up as they do not perform any administrative role; they perform more like legislature. Hence, a new category to be created to describe them.

- In article 20 and 21 a long list of works confuses between various functions-management, planning, execution, monitoring, and deliberating functions, which are the main spirit behind creation of Gram Sabha. It also misses two critical points, Gram Sabha has no say on budget of Gram Panchayats, and also Gram Sabha has no say on what is to be done at block and district levels.

- Two meetings in the span of 6 months each tend to become ceremonial. Gram Sabha must mandatorily meet more, at least 3 times a year at fixed dates.

Accountability and Citizens Participation

- There may be specific provisions given to citizens to inspect the records on tax accounts, measurement book and muster rolls. Provision may also be made to constitute Appellate Tribunal to enable the citizens go against the arbitrary decisions of Panchayat (in issue of license etc) and for the adjudication of disputes between Panchayats.

- Section 251 talks of social audit of only village panchayats, and not of block and zilla panchayats. Social audit and Citizen Report Card clauses must apply equally to all tiers of panchayats.

- The idea of Ombudsman in Section 254 is welcome but there must be at least one Ombudsman per district for the system to be effective. The Chief Minister must not be involved in the selection of the Ombudsman. The staffing of the Ombudsman's office must not be left to state governments as mentioned in Section 257. There must be at least 5-10 staff members depending on the size of the district.

General suggestions

This bill still maintains the rural urban dichotomy. Focus must be on local governments covering both rural and urban areas. This implies combining the regulatory and implementation Ministries associated with local governance at the Union and the States. Also the Model Act needs to enshrine tier specific obligatory, regulatory or developmental responsibilities for items included in the 11th schedule of the Constitution. Such responsibilities must be mutually exclusive for any given tier of panchayats. The idea of Secretary being a state government servant is completely contradictory to decentralization and devolution. MPGSA, though belated, is a welcome step for aiming at uniformity in the functioning of the Panchayats across the states. This will demand political will of the state governments as it will call for legislative action for major amendments to be effected on the existing Act together with requirement of re-defining political philosophy on Panchayats. Besides, it will also have to address crucial adjustment problems for the existing panchayats.

For complete responses including related resources and documentation, to join the discussion or to become a member of Decentralization Community, please write to Joy Elamon (joy.elamon@un.org.in) or Tina Mathur (tina.mathur@un.org.in) or visit our website www.solutionexchange-un.net.in