

Roadmap for the Panchayati Raj (2011-16): An All India Perspective

**Ministry of Panchayati Raj
Version date: Feb., 2011**

ROADMAP FOR THE PANCHAYATI RAJ: AN ALL INDIA PERSPECTIVE

Chapter One

STATUS OF THE PANCHAYATS AND APPROACH TO THE ROADMAP

- 1.1 Evolution of Local Governance in India.....
- 1.2 Constitution 64th & 73rd Amendment Bills
- 1.3 Local governance in the Tribal Areas :
 - (a) Fifth Schedule Areas and PESA.....
 - (b) North East States
- 1.4 Current Status of the Panchayats and Devolution Index
- 1.5 Current Status of the Panchayat Infrastructure
- 1.6 Efforts of Government of India & the States
- 1.7 Why are the Panchayats not delivering in many States
- 1.8 Approach to the Roadmap

Chapter Two

STRENGTHENING DEMOCRATIC FUNCTIONING OF THE PANCHAYATS

- 2.1 Participation at village level: Gram Sabha and Ward Sabha
- 2.2 Standing Committees
- 2.3 Transparency and Accountability
- 2.4 Organizing the poor for their participation
- 2.5 Women and Panchayats
- 2.6 Role of non-office bearers
- 2.7 Role of Political parties.....
- 2.8 Vigilance, Redressal of Grievances and Ombudsman.....
- 2.9 Federation of Panchayats
- 2.10 Panchayat and the Civil Society
- 2.11 Action Points.....

Chapter Three

FUNCTIONS OF THE PANCHAYATS.....

- 3.1 Functions of a Model Local Government
- 3.2 Constitution and functions of the Panchayats:.....
- 3.3 Devolution and Activity Mapping
- 3.4 Role of Central Schemes.....
- 3.5 Parallel Bodies and the Panchayats.....
- 3.6 Action points.....

Chapter Four

FUNCTIONARIES OF THE PANCHAYATS.....

- 4.1 First Round Table Resolutions on Manpower
- 4.2 2nd ARC and Panchayat Manpower

4.3	Devolution and Manpower for the Panchayats
4.4	Panchayat Cadre and State Cadre
4.5	Action Points.....

Chapter Five

PANCHAYAT FINANCES AND ACCOUNTING

5.1	Share of Panchayats in GDP
5.2	Constitutional Provisions on Panchayat Finances
5.3	2 nd ARC.....
5.4	Fiscal Decentralization.....
5.5	Finances of the Panchayats
5.6	Accounts and Audit System.....
5.7	Action Points.....

Chapter Six

CAPACITY BUILDING THROUGH TRAINING OF THE PANCHAYATS FUNCTIONARIES

6.1	Dimensions of the Challenge
6.2	National Capacity Building Framework (NCBF)
6.3	Accounting CBT efforts.....
6.4	Training infrastructure for CBT.....
6.5	CBT for Elected Women Representative.....
6.6	CBT for Decentralized Governance & Decentralized Planning.....
6.7	Action Points.....

Chapter Seven

DECENTRALIZED PLANNING

7.1	Need for Decentralized Planning
7.2	Constitutional Provision.....
7.3	11 th Plan & Decentralized Planning.....
7.4	2 nd ARC.....
7.5	National conference on Decentralized Planning.....
7.6	Manual for Integrated District Planning
7.7	Participative integrated District Planning.....
7.8	Role of BRGF / MGNREGA in catalyzing Decentralized Planning.....
7.9	District Planning Committees (DPCs).....
7.10	Action Points.....

Chapter Eight

E-PANCHAYAT

8.1	Objective of e-Panchayat.....
-----	-------------------------------

8.2	ISNA, BPR & DPR for each State/UT.....
8.3	Panchayat Enterprise suit and Application Softwares.....
8.4	PRIASoft.....
8.5	PlanPlus Software.....
8.6	e-Panchayat & CSCs.....
8.7	Training e-Panchayat.....
8.8	Action Points.....

Chapter Nine

PANCHAYAT (EXTENSION TO SCHEDULED AREAS) Act (PESA).....

9.1	PESA for people-centric governance.....
9.2	Need for PESA
9.3	Powers of Gram Sabha.....
9.4	Role of PESA.....
9.5	Effective functioning of Gram Sabha.....
9.6	Action Points:.....

Chapter Ten

DECENTRALIZED GOVERNANCE IN THE NORTH EAST STATES

10.1	Sixth Schedule
10.2	2 nd ARC and Expert Committee
10.3	Framework for dealing with decentralization in NE States
10.4	Action Points:.....

Chapter Eleven

LEGAL FRAMEWORK.....

11.1	Model Panchayati Raj Act
11.2	Amendment to Article 243 of the Constitution.....
11.3	Constitutional Amendment required.....
11.4	Setting up of District Councils.....
11.5	Making the Panchayats accountable to the Gram Sabha
11.6	Representation of MPs and State legislature, MLAs & MLCs in PRIs.....
11.7	Rotation in the reservation of seats.....
11.8	Reconciling the term of SFCs with that of the CFC.....
11.9	Restructuring of legislative councils.....
11.10	Nyaya Panchayat Bill
11.11	Dispute-free village scheme.....
11.12	Extension of UDPI to rural areas.....
11.13	Action Points.....

Chapter Twelve

ROAD AHEAD.....

12.1	Vision, Mission & Strategy for the Panchayats
12.2	Efficiency & Accountability of the Panchayats
12.3	Functions of the Panchayats.....
12.4	Functionaries of the Panchayats.....
12.5	Finances of the Panchayats
12.6	Capacity Building & Training
12.7	Decentralized Planning
12.8	e-Governance
12.9	PESA.....
12.10	Decentralized Governance in the NE States
12.11	Constitutional & Legal Framework.....

Chapter One

STATUS OF THE PANCHAYATS AND APPROACH TO THE ROADMAP

1.1 Evolution of Local Governance in India

(a) Pre-British Local Governance

India's old sacred books and historical sources mention village communities (councils or assemblies) across the sub-continent that were self-governing over millennia, serving as the main interface between the predominantly agrarian village economies and the higher authorities. Custom and tradition elevated these earlier councils or assemblies called "sabhas" to a position of considerable authority. Slowly, they assumed the form of the "Panchayat" (an assembly of five respected elders). These panchayats became the pivot of administration, the focus of social solidarity and the principal forum for the dispensation of justice and resolution of local disputes. During the medieval and Mughal periods these characteristics of the village panchayats remained unchanged.

(b) Pre-Independence Panchayats

Several steps were taken during British rule in India towards setting-up formal local bodies. In urban areas, a municipal corporation came to be formed in Madras – on the British model of a town council – as early as 1687.

In 1870, Lord Mayo (Governor General-in-Council) secured the passage of a resolution for the decentralization of power aimed at bringing about greater administrative efficiency in meeting the demands of the people but primarily designed to augment imperial finances. At about the same time, a significant first step towards reviving the traditional village panchayat system in Bengal was taken through the Bengal Chowkidari Act, 1870, which empowered District Magistrates to set up Panchayats of nominated members in the villages.

The Magna Carta of local democracy in British India was the Ripon Resolution of 1882 providing for rural local boards with two-thirds of membership to be composed of elected, non-official representatives and presided over by a non-official Chairperson. Actual progress in implementation was slow but the role of rural local administration was elevated; and the term "self-government" gained currency.

In 1906, the Indian National Congress, under the president-ship of Dadabhai Naoroji, affirmed "self-government" as the political goal for the country.

In 1907, the government constituted a six-member Royal Commission on Decentralisation with Shri R.C. Dutt as its only Indian member. The Report of this commission – released in 1909 – elaborated the principles enunciated in the Ripon Resolution and recognised the importance of Panchayats in the governance of India.

In the same year(1909), the twenty-fourth session of the Congress at Lahore adopted a resolution urging the government to take early steps "to make all local bodies from village Panchayats

upwards elective with elected non-official chairmen” and “to support them with adequate financial aid.”

At its twenty-eighth session in December 1913 in Karachi, the Congress adopted a resolution regretting that decentralization had remained largely on paper.

In her presidential address at the Congress session in Calcutta in 1917, Dr. Annie Besant blamed the “inefficient bureaucracy” for not doing even the little that was suggested in the Report of the Royal Commission on Decentralisation.

The Montagu-Chelmsford Reforms of 1919 made local self-government – under the proposed scheme of Dyarchy – a “transferred subject” bringing self-government under the domain of Indian Ministers in the provinces. To make local self-government both fully representative and responsible, the Montagu-Chelmsford reforms suggested that there should be (as far as possible) complete popular control in local bodies and the largest possible independence for them from outside control.

The Government of India Act, 1935 and the inauguration of provincial autonomy under it marked another crucial stage in the evolution of Panchayats. With popularly elected governments in the Provinces, almost all provincial administrations enacted legislation for further democratization of local self-government institutions, including the village Panchayats.

(c) Constitutional Provision in 1950

Following independence, the first draft of India’s Constitution did not include any provision for the Panchayats even though Gandhiji had sought to make village Panchayats the very foundation of democracy in independent India. The President of the Constituent Assembly, Dr. Rajendra Prasad, drew the attention of the Law Minister, Dr. B.R. Ambedkar, to this lacuna in a letter dated 10 May 1948, initiating discussion and debate both outside and within the Constituent Assembly. This eventually led to the passage of an amendment proposed by the well-known Gandhian, Shri K. Santhanam, on 25 November 1948 including village Panchayats in Part IV of the Constitution containing the non-mandatory Directive Principles of State Policy. The amendment which was eventually numbered as Article 40 reads: **“The state shall take steps to organise village panchayats and endow them with such power and authority as may be necessary to enable them to function as units of self-government.”**

(d) Community Development Project, 1952 and the Panchayats

Community Development (CD) projects were inaugurated in 1952 and were modelled after the earlier experiments at Santiniketan, Baroda (Vadodara), and Nilokheri. However, the dynamic driving force behind the CD movement, Minister S.K. Dey, was of the consistent view that CD projects could not achieve their full potential in the absence of effective institutions for people’s participation.

(e) Balwantrai Mehta Committee

In 1957, a historic breakthrough in establishing Panchayati Raj was effected through the Report

of the Balwantrai Mehta Committee which recommended: “Public participation in community works should be organized through statutory representative bodies.” It was of the view that without an agency at the village level that could represent the entire community, assume responsibility and provide the necessary leadership for implementing development programmes, real progress in rural development could not come about at all.

Subsequently, the National Development Council (NDC) endorsed the basic principles of democratic decentralization enunciated in the Balwantrai Mehta report and laid on the States the duty of working out the structures suitable to each State. It was during this period that the term “Panchayati Raj” gained currency as a process of governance organically linking the will of the people from the Gram Sabha to the Lok Sabha. Prime Minister Nehru inaugurated the 3-tier Panchayati Raj in Nagaur, Rajasthan on 2 October, 1959.

The Jayaprakash Narayan Committee spoke of the contradictory positions developing within the government in respect of Panchayati Raj, pointing out that: “After having accepted Panchayati Raj as the agency responsible for planning and execution of plans...there is no longer any valid reason for continuing individual allocations subject-wise even to serve as a guide.”

The Ministry of Community Development was brought under the Ministry of Food and Agriculture, and in 1971 the title ‘Community Development’ was dropped and replaced by ‘Rural Development.’

(f) Ashok Mehta Committee

By the early seventies, however, the Panchayats had gone from a phase of early ascendancy to one of decline and stagnation. The Asoka Mehta Committee (formed in 1978) made far reaching recommendations to amend the situation and recommended that Panchayati Raj be included in the Constitution. In keeping with the spirit of the Asoka Mehta Committee recommendations, some states – including West Bengal, Karnataka and Andhra Pradesh – revisited their respective Panchayati Raj systems and undertook several new initiatives to endow local bodies with more powers which served as a prime inspiration and example for subsequent reform.

The West Bengal Panchayat Act, 1973 (West Bengal Act XLI of 1973) brought some fresh air in the Panchayat system. Direct elections in all three tiers (through universal adult franchise) had to be held at regular intervals. They were made mandatory – without any discretionary power of any authority – to postpone such elections indefinitely. Powers to collect tax and non-tax revenue were clearly defined. Functional domain of the Panchayats was more clearly delineated as compared to the earlier Panchayats. The new legislation empowered the Panchayats to spread their wings in various fields of activities encompassing rural life. Mandal Panchayats – as envisaged in the Asoka Mehta Committee – exist only in Andhra Pradesh, though, in addition to the Village Panchayats.

1.2 Constitutional Amendment Bills

(a) Constitution 64th Amendment Bill:

Prime Minister Rajiv Gandhi (1984-89) was driven by a vision to provide the people with a

“representative administration” as he emphasized in his Address to the Nation in January 1985

and, also, included in the Revised Twenty-Point Programme of 1986. Rajiv Gandhi’s vision was that people must determine their own destinies as well as the destiny of the nation: “To the people of India, let us ensure maximum democracy and maximum devolution.... Let us give power to the people.”

A Sub-Committee of the Consultative Committee of Parliament attached to the Ministry of Rural Development under the chairmanship of Shri P.K. Thungon recommended that Panchayati Raj bodies should be constitutionally recognized.

In May 1989, Prime Minister Rajiv Gandhi himself introduced the Constitution (64th Amendment) Bill, saying:

“Our Bill will ensure that Panchayati Raj has a democratic character similar to the Lok Sabha and the State Assemblies and constitutional protection for their functioning as representative institutions of the people.”

The Constitution (64th Amendment) Bill was followed in July 1989 with the Constitution (65th Amendment) Bill that sought to endow urban local bodies – from town Panchayats and Municipalities to Metropolitan Councils – with powers similar to those that were sought to be devolved to the rural Panchayats. A particularly significant provision was for buckling the development of the rural hinterland in every district to the neighbouring urban centres through the mechanism of a District Planning Committee (DPC) jointly elected by, from and amongst the members of the Panchayats at all three levels and the Municipalities within the district. The DPCs so constituted were to be entrusted with the task of ‘consolidating’ the plans prepared at lower levels into a ‘draft district development plan’ which would then be forwarded to the State Government.

Although both Bills received the required two-thirds majority with at least half the members present and voting in the Lok Sabha (on 13 October 1989), the Bills failed to muster – by a handful of votes – the required constitutional majority in the Rajya Sabha.

In September, 1990, the National Front government introduced the Constitution (74th Amendment) Bill – a combined Bill on Panchayats and Municipalities – but, before this was taken up for discussion, there was a change of government.

(b) Constitution 73rd Amendment Bill:

The Congress government under Prime Minister P.V. Narasimha Rao introduced the 72nd (Panchayats) and 73rd (Nagarpalikas) Constitution Amendment Bills based substantially on the Bills moved in the Eighth Lok Sabha by Shri Rajiv Gandhi but also incorporating some of the changes wrought by the National Front government. These two Bills were referred to a Joint Select Committee of the Parliament which effected some further changes but conforming considerably to the earlier 1989 initiative.

The Lok Sabha and the Rajya Sabha passed both Bills on the 22 and 23 December 1992 respectively. By the time the Parliament passed the two Bills, their sequence changed to 73rd and 74th respectively. Following their ratification by more than half the State Assemblies, as required under the Constitution, the President of India gave his assent; the Acts came into force as the Constitution (Seventy-third Amendment) Act, 1992 on 24th April 1993 and the Constitution (Seventy-fourth Amendment) Act, 1992 on 1 June 1993. This added two new parts to the Constitution, namely, Part IX titled “The Panchayats” and Part IXA titled “The Municipalities.”

1.3 Local governance in the Tribal Areas

Article 244 of the Constitution envisages three categories of Tribal Areas, namely,

- (i) areas notified as ‘Scheduled Areas’ in the specified States (Fifth Schedule).
- (ii) areas listed as ‘Tribal Areas’ in the Sixth Schedule in NEER
- (iii) areas not covered in the above two categories.

While Sixth Schedule concerns ‘Administration of Tribal Areas,’ Fifth Schedule relates to ‘Administration and Control of Scheduled Areas and Scheduled Tribes.’ There is no special schedule for the rest.

(a) Fifth Schedule Areas and PESA

The Fifth Schedule to the Constitution (Article 244) relates to the provisions on the administration and control of the scheduled areas and scheduled tribes other than those in North East States. Notably, the Schedule V Areas (of the 9 States: Andhra Pradesh, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Maharashtra, Madhya Pradesh, Orissa and Rajasthan) are characterized by poverty, illiteracy, weak infrastructure and deprivations in general. Given the vulnerability of the people, Schedule V of the Constitution makes special provisions such as:

- Report by Governor to the President regarding the administration of these Areas
- Tribes Advisory Council to advise Governor on matters pertaining to the welfare and advancement of the STs
- Direction by Governor through public notification that any particular Act of parliament or of the State Legislature shall or shall not apply to a Scheduled Area or any part thereof
- Governor to make regulations for the peace and good government
- Union Government to give direction to the State as to the administration of these Areas.

Nevertheless, pressure on natural resources in these areas continued due to large projects being set up therein and unscrupulous elements indulging in illegal mining and forest-felling. Land alienation and exploitation also continued. This led to dislocation of the communities and loss of major sources of livelihood. It was, therefore, critical that customs, rights and livelihoods of these people are protected through their empowerment. Accordingly, PESA was enacted in 1996 which extended Part IX of the Constitution to the Schedule V Areas. PESA promotes people-centric governance and provides a central role to the Gram Sabha in:

- approving village Panchayat plans, identifying beneficiaries, issuing certificate of utilization of funds by the Panchayats
- consultations for land acquisition, resettlement and rehabilitation

- consultation for leases of minor minerals
- powers to prevent land alienation and restore alienated land restrict sale/consumption of liquor
- manage village markets
- Control institutions and functionaries in all social sectors, etc.

(b) Local self-governance in the NE states

The legal framework of LSG in North Eastern Region (NER) broadly comprises three typologies:

- (i) Sixth Schedule Frame (Meghalaya, parts of Assam, Mizoram and Tripura)
- (ii) State Legislation Frame (Nagaland and non-Council Areas in Mizoram)
- (iii) National Frame (Arunachal Pradesh, Sikkim, Manipur excluding hill areas and non-Council areas in Assam and Tripura).

Accordingly, different Constitutional measures will be necessary for implementing reform in the specific context of each state.

The traditional self governing village institutions are strong throughout NER especially in tribal territories. But formal institutions such as Village Council or Gram Sabha under various State laws (including the Sixth Schedule) are rather weak. Accordingly, the traditional-formal impasse continues.

Each tribal area mentioned in Para 20 of the Sixth Schedule is designated as an ‘autonomous district’. The area inhabited by each of the tribes in a district may be carved out as autonomous region. Each autonomous district is governed by a ‘District Council’ (Council, in brief) and autonomous region by a ‘Regional Council.’

This unique Council frame comprises the third tier of legislature for Tribal Areas about Sixth Schedule matters. These Councils endowed with legislative, judicial and executive powers virtually function as ‘state within state.’

1.4 Current Status of the Panchayats

(a) State of Panchayats Reports (SoPRs)

SoPR is an endeavour for periodic stock-taking of the progress and the pitfalls as also for cross-learning from the States. In fact, the fifth round Table of Ministers in charge of Panchayati Raj (28-29 October 2004) adopted a resolution for preparation of Annual reports by the States and also for annual reports called the State of Panchayats Reports (SoPR) by the Union Ministry of Panchayati Raj.

MoPR prepared the first SoPR in 2006 in three volumes. A common format was used to assess progress in the States and in the Union Territories along eighteen dimensions. While releasing the first Report, the Prime Minister remarked that such an assessment, for best effect, should be independent. The next year, therefore, MoPR commissioned the Institute of Rural Management, Anand (IRMA) to prepare the second edition of the Report: SoPR (2007-08). Volume I of this

contained commentaries on the status and issues of the Panchayats on a number of important themes such as devolution, representation, and implementation of schemes. Volume II included status reports on devolution and functioning of the Panchayats in the States and the UTs. Volume III contained important government documents related to the Panchayats published at different points in time. SoPR (2008-09) is the third edition and once again an assessment by IRMA.

The Reports show that, overall, the mandatory provisions specified in the Constitution have been implemented in the last decade and a half. All Part IX States (excluding Jharkhand, due to a court case) held regular elections through the State Election Commissions. All the States have implemented reservation for women, SCs and STs bringing almost 1.6 million representatives from these groups into elected positions in the Panchayats, making the Panchayats the nursery of future leadership. State Finance Commissions have been constituted and in many States, their recommendations have been acted upon. All the States (excluding Uttarakhand & Jharkhand) have constituted District Planning Committees and most have initiated decentralised planning processes.

However, the implementation of Constitutional provisions – n which were left to the discretion of the States – varies to a great extent. The most important aspect in strengthening of the Panchayats is the devolution of 3Fs (i.e. functions, funds and functionaries) related to the matters listed in the Eleventh Schedule of the Constitution. Another is the enablement of their function of preparing and implementing bottom up participatory plans for economic development and social justice. The States vary a great deal in both these respects. While some States have forged new paths, others are still to catch up. Of course, many States are trying out new approaches and mechanisms, and making corrections along the way.

(b) Devolution and PEAIS/DI

The Panchayat Empowerment & Accountability Incentive Scheme (PEAIS) aims at encouraging States to adequately empower Panchayats and put in place systems for bringing about transparency & accountability of the Panchayats. Performance of States in these respects is measured through a Devolutions Index (DI). Token award is also given to the States which rank high on the DI.

Evaluation of States under PEAIS is based on a two-stage assessment. The first stage, called the Framework Criteria, was based on the following 4 fundamental Constitutional requirements: (i) Establishment of State Election Commission; (ii) Holding of elections to the PRIs; (iii) Setting up State Finance Commission; (iv) Constitution of the District Planning Committees (DPCs). States that fulfilled each of these 4 fundamental requirements qualified for evaluation in terms of DI. The indicators for the DI aim at assessing the state of devolution in respect of the 3Fs. DIs developed for PEAIS so far do not specifically capture the degree of Panchayat accountability and performance.

1.5 Current Status of Panchayat Infrastructure

(a) Manpower and Office Buildings:

A large number of Gram Panchayats in the country do not have even full time Secretary (See Annexure...). Around 25 percent of the Gram Panchayats do not have basic office buildings (See Ann...)

(b) Database

In order to have adequate data base as well as to monitor the progress of implementation of plans and its outputs as well as outcome (wherever possible), MIS cells will be developed in the ZP and the PS with support of necessary professionals. The GP employees will also be oriented to collect and compile data related to planning as well as to generate information in structured formats in respect of all programmes under implementation by those bodies. The role of the State Government will be to build up capacities of the PRIs to utilize appropriate ICT applications for data management and monitoring of plans under implementation by those bodies.

(c) Capacity of the Panchayat Functionaries

A large no.of elected representatives of PRIs are illiterate and know little about their roles & responsibilities, programmes, procedures, systems. MoPR has prepare and circulate NCBF for the guidance of all concern to ensure training & capacity building to elected representatives as well as appointed officials of PRIs.

Often the Panchayat Functionaries for want of good, relevant & periodic training are not able to perform their functions. Elected representatives in particular need to be trained within 3 months of their election in their functional domain.

(d) ICT

Although all the District and Intermediate Panchayats are connected with computers, only around 20% Gram Panchayats reported to be having computing facility. In some States, Village Panchayats donot have computing facility. Gujarat, Kerala, Tamil Nadu and West Bengal have done good work by providing computing facility to almost all the Gram Panchayats.

1.6 Efforts of Government of India & the States

(a) Round Tables and National Charter

The Ministry of Panchayati Raj organized a series of seven Round Tables of State Minister of

Panchayati Raj between July and December 2004 around the country for evolving a national consensus. The following significant decisions were taken:

- **Activity Mapping:** Activity Mapping will be completed by the States by 1st April, 2005.
- **Decentralized Planning:** States would constitute District Planning Committees (DPCs) in all districts by 1st April, 2005. Spirit of Article 243G should be upheld in that powers and responsibilities for planning and implementation are to be devolved to the Panchayats alone and not to any parallel structures.
- **Special Areas:** Appropriate conformity legislation with PESA must be passed by the 9 PESA States.

- **Rotation of Reservation:** State legislatures might consider extending the term of each reservation rotation cycle. States should not introduce State specific policies on reservation which result in diminishing the presence and role of women in Panchayati Raj.
- **Jurisprudence:** MoPR would network with expert institutions to review and compile the growing case law on Panchayati Raj. MoPR would also put in place an appropriate institutional mechanism for building, updating and disseminating a database on Panchayat related jurisprudence.
- **Annual Reports:** Annual administrative reports by Panchayats should facilitate comparisons, identify innovations, help in drawing lessons and highlight policy issues requiring resolution. The action points of the Seven Round Tables would underlie the basic framework of the Annual State of the Panchayats Reports (SoPRs). Drawing upon the SoPRs of the States, the MoPR would prepare an Annual Report on SoPR in the country.
- **Devolution Index:** All states would prepare a Devolution Index to facilitate self-assessment.
- **Election:** There must be parity in the electoral processes between Parliamentary, Assembly and Panchayat elections. MoPR would encourage consultations between the Chief Election Commissioner (CEC) and the State Election Commissioners (SECs) on evolving a common electoral roll for all levels of elections. The Union Government would consider preparing a model code relating to the supervision, directions and conduct of elections to Panchayats.
- **Audit:** The work of the Director of Local Fund Audit (DLFA) and other similar bodies would be upgraded, considering that Panchayats are institutions of local self-government. This would require greater coordination between the DLFA and other bodies with CAG. Panchayats would be associated with the preparation of simple and easily comprehensible audit and accounting standards and norms, emphasizing fund management and tracking. This would go a long way in capping, reducing and greatly limiting opportunities for malfeasance and corruption.
- **Social Audit:** There was a need for giving greater emphasis upon undertaking social audit at the Gram Sabha level and to establish a symbiotic relationship between social and formal audit. Social audit policies would be prepared, based on best practices available in different States and considered for their adoption by State Governments.
- **e-governance:** Information Technology (IT) needs to be primarily positioned as a decision-making support system for Panchayats themselves-a tool for transparency, disclosure of information and social audit, a means for better and convergent delivery of services to citizens, improving internal management and efficiency of Panchayats, capacity building of representatives and officials of Panchayats, and a medium of e-procurement.
- **Capacity Building:** Ministry of Panchayati Raj would prepare a national perspective plan on decentralized training and capacity building for all PRI functionaries with clarity in respect of time-lines, resource inflows, and objectives of the agenda on capacity building and training.

(b) Role of MGNREGA, BRGF, Finance Commissions and Planning Commission in energizing the Panchayats

(1) MGNREGA

Panchayats at district, intermediate and village levels are the principal authorities for planning and implementation of MGNREGA under Section 13 of the Act. It is notable that:

- a) at least 50 per cent of MGNREGA funds are to be spent directly by the Gram Panchayats (GPs),
- b) Gram Sabhas (GSs) are to recommend specific projects to the GPs and conduct social audit of MGNREGA works,
- c) District Programme Coordinators and Programme Officers are to assist District and Intermediate Panchayats respectively in discharge of their functions.

These features of MGNREGA offer a unique opportunity to strengthen and enable PRIs, particularly the GPs and GSs. The rejuvenated and enabled PRIs, in turn, can become powerful instruments in making MGNREGA a much better success. It is generally seen that States with vibrant and optimally sized Panchayats with requisite manpower have implemented MGNREGA better. Further, the central recommendation of the National Workshop on MGNREGA held on 17th & 20th August, 2009 is also for all round strengthening of PRIs for effective implementation of MGNREGA (**Annex.....**).

A cardinal principle of MGNREGA is participatory, bottom-up planning. Further, convergence guidelines issued by Ministry of Rural Development, which seek to efficiently manage & conserve National Resources including soil & water, assume critical importance. Much of such convergence could be planned and implemented effectively only by GPs or GSs at the local level on a sustained basis.

(2) BRGF

BRGF launched in February 2007 intends to address regional imbalances in 250 identified backward districts through:

- a) decentralized, participative & holistic planning (as an essential condition for getting BRGF grant) that starts from the grassroots upwards through the Panchayats & Municipalities and culminates in a District Plan consolidated by the DPC
- b) bridging the critical gaps in development that are not met through the existing schemes/resources
- c) building capacity of Panchayat functionaries.

The major achievement was preparation of decentralized plan by 246 of 250 districts and local bodies therein. It has met local-felt needs within the available amount, which are not met otherwise. The programme is being restructured to increase its impact on the regional backwardness and capacity of the Panchayats.

(3) Finance Commissions

The own revenues of the LBs being very small, they largely depend on the devolution of funds from the Central and the State Governments and the Finance Commissions. In fact, the SFC recommendations could also play an important role in the award of the Central Finance Commission (CFC).

As such, the SFCs have to play a serious role in the scheme of fiscal decentralization while arbitrating on the claims to the resources by the LBs and the State Governments and ensuring greater stability and predictability to the transfer mechanism. However, there has been a growing concern about the functioning and reports of the SFCs. Often the reports are analytically weak; the SFCs themselves are not staffed with adequate & knowledgeable professionals; they have inadequate data and norms for service-delivery to work with; and, at the end of it all, their recommendations are ignored.

(4) Planning Commission

The 11th Plan document and its Mid Term Appraisal has placed great emphasis on the capacity building and enablement of the Panchayat for effective delivery of Policy & programmes, which presently are managed within silos.

The Planning commission has vide its circular dt. 25.8.06 required the State Governments to attach along with the State Plan proposals (a) summary of District plans, (b) a note on the present status of empowerment of local governments, and (c) the procedures adopted in getting local draft plans prepared. This, however, is not being done.

1.7 Why are the Panchayats not delivering in many States

Some reasons for their uninspiring performance are:

Lack of adequate devolution: Many States have not taken adequate steps to devolve 3Fs to the PRIs to enable them to discharge their constitutionally stipulated function. Further, it is imperative that the PRIs have resources to match the responsibilities entrusted to them. While SFCs have submitted their recommendations, not many few States have implemented these or taken steps to ensure the PRI's fiscal viability.

Excessive control by bureaucracy: Wide powers of suspension and dismissal have been vested in the State bureaucracy, placing the PRIs in a position of disadvantage vis-a-vis even middle rung functionaries of the State Governments. In some States, even Gram Panchayats have been placed in a position of subordination: Gram Panchayat Sarpanches have to spend extraordinary amount of time visiting Block Offices for funds and/or technical approval. These interactions with the Block staff office distort the role of a Sarpanchs as elected representatives.

Tied nature of funds: This has two implications. The activities stated under a certain scheme are not always appropriate for all parts of the district. This results in unsuitable activities being promoted or an under-spend of the funds.

Overwhelming dependency on government funding: A review of money received and own source funds shows the overwhelming dependence of Panchayats on government funding. When Panchayats do not raise resources and instead receive funds from outside, people are less likely to request a social audit.

Reluctance to use fiscal powers: An important power devolved to GP is the right to levy tax on property, business, markets, fairs and also for services provided, like street lighting or public

toilets, etc. Very few Panchayats use their fiscal power to levy new taxes. The argument pushed by Panchayat-heads is that it is difficult to levy tax on your own constituency, especially when you live in the community

Status of the Gram Sabha: Empowering the Gram Sabhas could have been a powerful weapon for transparency, accountability and for involvement of the marginalized sections. However, a number 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.

1.8 Approach to Roadmap

50 years of Panchayati Raj was celebrated on 2nd Oct., 2009. It is certainly an occasion for introspection & revisiting Constitution, Laws, Policies, Programmes etc. If

- (a) PRIs are to become institutions of local government
- (b) Benefits of ever increasing public spending, through plethora of vertical structures & schemes, are to reach people in a good measure
- (c) Attendance & performance of grass root functionaries are to improve.

It may be worthwhile to recall that the-then PM, while introducing the 64th Constitution Amendment Bill in May 1989, had concluded his speech as follows “To the people of India, let us ensure maximum democracy and maximum devolution. Let there be an end to the power-brokers. Let us give power to the people”. Though the idea of self governance has got legitimacy through the constitutional and legal framework, in actual practice, progress on the ground is not very inspiring. We have miles to go before realizing this Constitutional vision. Unflinching effort is needed by all devoted to extending the frontiers of Indian democracy. The States need to take bold steps and the GoI need to provide necessary support.

Recommendations of the Round Table of State Ministers of Panchayati Raj, 2nd ARC and Inter State Council are the primary source for formulating the Roadmap. Recommendations of the 2nd ARC in its Sixth Report on “Local Governance—An Inspiring Journey into the Future” cover both strategic and operational issues for strengthening Panchayati Raj so essential for deepening of democracy, for ensuring efficient implementation of development programmes and for delivery of basic services as well as for control of corruption. These include: changes in the Constitution and the Acts; modification in design and implementation of CSSs; larger representation of local governance in Legislative Councils; incentive and disincentive for non-implementation of relevant provisions of the Constitution; integration of relevant Ministries/Departments in both the Central and State Governments; full implementation of PESA Act; effective fiscal decentralization & financial information system; participatory and integrated planning based on good data base and requisite expertise; building organizational capacity of PRIs; building capacity of elected representatives/officials; and strengthening accountability of PRIs.

While Govt. of India along-with the State Governments has been working on these issues, there is a need for further strengthening the efforts particularly at the operational level.

Chapter Two

STRENGTHENING DEMOCRATIC FUNCTIONING OF THE PANCHAYATS

2.1 Participation at village level: Gram Sabha and Ward Sabha

Article 243A gives constitutional recognition to the 'Gram Sabha' as 'a body consisting of persons registered in the electoral rolls relating to a village comprised within the area of the Panchayat at the village level.' The Constitution further stipulates that a Gram Sabha may exercise such powers and perform such functions at the village level as the legislature of a State may, by law, provide. Gram Sabha is the key to self-governance and to transparent and accountable functioning of the Gram Panchayat. The Gram Sabha is the only forum that can ensure direct, participative democracy. It offers equal opportunity to all citizens of a village or cluster of villages to discuss and criticize, approve or reject proposals of the Panchayat executive and also assess its performance. It is the platform for effective social audit, which lies at the core of ensuring transparency and accountability in the functioning of the system.

To this end, there is a need to accord clearly enunciated statutory powers and authority to the Gram Sabha. The first Round Table of State Panchayati Raj Ministers at Kolkata on 24th-25th July, 2004 inter alia recommended that the Gram Sabhas should in fact be given power and functions in accordance with Art.243A of the Constitution to enable them to make the elected Panchayats answerable to the people.

(a) Present Functioning of the Gram Sabha

Although the Gram Sabha forum has high potential for grounding democracy at the grassroots, facilitating socio-economic inclusion, participation in planning and implementation of development programmes and ensuring accountability of the Panchayat to the electors, it is generally seen that meetings of the Gram Sabhas are not held regularly and are marked by thin attendance particularly of women and marginalized groups. There is little discussion on the proposals put forward for approval by the Panchayat. Issues of common interest and of the marginalized sections are often not discussed.

The general perception is that the task before the Gram Sabha is approval of the lists of beneficiaries, approval for issue of utilization certificates and passing of the annual accounts. Panchayat heads bring their own supporters and potential beneficiaries to attend the meetings so that while the quorum is completed, most of the other electors keep away. Hence, a sense of cynicism has developed about the efficacy of Gram Sabha meetings. In fact, the ineffectual nature of Gram Sabhas in affected areas is stated to be one of the primary causes behind the rise of Left Wing Extremism in the Scheduled Areas & vicinity.

For the rural local governance to be effective, energizing Gram Sabhas is the real challenge. There is a need to evolve mechanisms for regular and meaningful meeting of the Gram Sabha, active participation of its members and monitoring its functioning. Good practices that provide for people's assemblies below the Gram Sabha such as Ward Sabha, Mahila Sabha and Bal Sabha should be promoted. Since the area and population of a Ward Sabha is smaller and

commonality of interest greater, people would discuss with close involvement matters that they wish taken up through the Ward Member to the Gram Panchayat and evolve a consensus.

(b) Gram Sabha and Social Audit

Social audit is a close corollary of energetic Gram Sabha functioning. It would inculcate respect for downward accountability amongst elected representatives and government officials. If Gram Sabha keeps a close vigil on implementation and leakages, inefficiencies can be virtually eliminated. Gram Sabha can monitor & discuss attendance of government functionaries, functioning of schools, dispensaries, aganwadi centers, ration shops and other local institutions. Gram Sabha can discuss reports of the Standing Committees of the Gram Panchayat. Gram Sabha can also go through the list of beneficiaries under schemes such as Indira Awaas Yojana (IAY), Antyodaya Anna Yojana (AAY) and National Old Pension Scheme.

Gram Sabha can be an effective forum for familiarizing the electors with the provisions of RTI for eliciting information that they are unable to obtain in the normal course.

(c) Energizing the Gram Sabha

The scope of deliberations in the Gram Sabha meetings can be enhanced to make these more interesting and meaningful, such as:

- i. Gram Sabha can be an effective forum for information sharing on programmes, schemes, good practices and matters of common interest for which assistance from the State and Centre is available through different policies and programmes.
- ii. Gram Sabha can discuss issues such as (i) quality of life and Millennium Development Goals, (ii) social security, gender justice, female feticides, substance abuse (alcohol, tobacco and drugs), hygiene, nutrition, (iii) sustainable development, diversification of agriculture, better cropping practices, opportunities for improving incomes, drought/flood management, soil & water conservation, (iv) infrastructure development, etc.
- iii. Gram Sabha should fully participate in planning, implementation and performance review of various schemes viz. BRGF, MGNREGA, NRHM, SSA, ICDS, IWMP, RKVY etc. In preparing plan and shelf of projects, realistic assessment of resources should be made. All State Departments should clearly articulate the role of Gram Sabha in their Policy/Programme/Scheme.

The role & responsibilities of Sarpanch, Panch and Secretary should be clearly defined. Sarpanch & Panch should represent the voice of people and not be rendered as mere functionaries of the administration. Secretary, while being accountable to the Gram Sabha through Gram Panchayat, should be duly protected from local pressures.

It is the bounden duty of the Gram Panchayats and government officials to ensure that the Gram Sabhas function properly through close monitoring and mentoring of their meetings and the Gram Sabhas are perceived as an effective fourth tier of local governance. The functioning of the Gram Sabha can be monitored by Intermediate Panchayat and Ombudsman.

(d) Duty of Gram Panchayats and Government Officials towards Gram Sabha

It is the bounden duty of the Gram Panchayats and government officials to ensure that the Gram Sabhas function properly through close monitoring and mentoring of their meetings and the Gram Sabhas are perceived as an effective fourth tier of local governance.

2.2 Standing Committees

A number of subjects have been devolved on the Panchayats by the various State Governments and Central Schemes. All these subjects cannot be discussed in the meeting of the Village Panchayat or the Gram Sabha. Attention of the Gram Sabha is often attracted to the most pressing challenges and issues at the time of the meeting. Many states, therefore, have formed subject-wise standing committees of the Panchayats to give a focused attention to their subject. Thus, Standing Committees on Agriculture, Health, Education and Water Supply and Sanitation are able to look after these particular subjects devolved to the Panchayats. The Standing Committee will formulate its own plan keeping the broad policy of the State and the local needs in mind. At present, the functioning of the Standing Committees is generally weak. Development of capacities of the elected members of the Standing Committees is needed. Additionally, the attitude of the official members for their better participation in functioning of the Standing Committees is also required.

2.3 Transparency and Accountability

Improving accountability is one key pre-requisite for better functioning of the Panchayat. Accountability cannot be enforced if there is lack of transparency in functioning of the Panchayats. Steps need to be taken for improving access to information to the people. One immediate measure can be to make some disclosure voluntarily. Gram Panchayat could be required to publish by writing permanently on suitable walls or permanent display board in its office or in other public places:

- the list of beneficiaries for programmes
- a list of families being assisted
- a list of the rights under various Acts like MGNREGA, RTE, RTI, etc.
- progress of important programmes like MGNREGA every month as per prescribed format
- availability of services by the GPs like dispensary-hours, etc.

This will be apart from building capacities and sensitivity of the Panchayats in supplying information to the people as per their need.

2.4 Organizing the poor for their participation through Self Help Groups

Self Help Groups (SHGs) have become powerful community organizations in some states with visibly effective social capital. They have gained space in the social and economic life of villages. The SHG system has also resulted in improvement of the financial situation of ordinary people, especially women, mainly through thrift and credit operations - thus providing security against vulnerability.

This is being achieved in Kerala through the association of Kudumbashree (Federation of the SHGs) with the Panchayats and also in West Bengal by involving the SHGs in Panchayats.

Through economic activities, it has also brought in a modicum of economic development in the life of the poor. Their achieving minimum level of income will be crucial for being able to participate freely, which is essential for expansion of democracy.

Because of the community-based and democratic functioning of SHGs and perceived efficiency, they have been used as extension mechanism as well as instruments in the delivery of services and implementation of projects. This is often done at the expense of the legitimate authority of PRIs, because officials are comfortable in dealing with interest groups. This tendency has aggravated as officials find dealing with political bodies like Local Governments quite messy and uncomfortable.

2.5 Women and Panchayats

The President of India in her Address to the Parliament on 4.6.09 had mentioned the intent to provide fifty percent reservation for women in Panchayats as women suffer multiple deprivations of class, caste and gender. And, enhancing reservation in Panchayats will lead to more women entering the public sphere.

Accordingly, a Bill to amend Article 243D to provide 50 % reservation for women in seats and also offices of Chairpersons in all 3 tiers of Panchayats was introduced in the Lok Sabha on 26.11.2009. Presently, out of approx 28.18 lacs elected representatives of Panchayats, 36.87% (around 10 lacs) are women. With the proposed Constitutional Amendment, the number of elected women representatives (EWRs) is expected to rise to more than 14 lacs. A number of steps are necessary for empowerment of women, such as:

- A provision of women component plans in PRI budgets
- Linkages with SHGs in all levels of PRIs.
- Adequate training and capacity building of EWR
- Political parties to put up women candidates
- Women candidates be given opportunity to serve a full term
- Mahila Sabhas be encouraged to facilitate women's concerns and be raised on priorities in meetings of Gram/Ward Sabhas
- Separate quorum for women's participation in Gram/Ward Sabhas.

2.6 Role of the non-office bearers

The non-office bearers can become a champion of their constituency defending public interest in the Panchayat body and will channel the grievances, needs and aspirations of their electorate into the scrutiny process without jeopardizing the process of the Panchayat. The role of non office bearer would be to represent their constituents, participate in the policy and budget decisions of the general body, suggest policy improvements, and scrutinize the executive's policy proposals and their implementation.

There is a need to take steps to clarify their roles as well as arrange for their capacity building.

2.7 Role of Political parties

There is need for consensus building on strategic issues of development among all the political

parties. In many States, the opposition-parties are represented on the committees of Panchayats.

Legal provisions create only the framework and effective participation of all stake-holders will require appropriate political will and imbuing democratic spirit by all the members. Moreover, it is the duty of the majority to create conditions for participation of all (including the opposition-parties) with freedom, mutual respect and dignity. One very important aspect of involvement of the political parties in opposition is to work as the watchdogs for monitoring activities of the majority

2.8 Vigilance, Redressal of Grievances and Ombudsman

In order that the Panchayats become true institutions of the people, there should be a strong mechanism for redressal of grievances against mal-functioning of those bodies. There will be two types of arrangement for that purpose. The first type can comprise of a system for recording of grievances in each Panchayat body along with a system for monitoring of grievance-redressal.

The second type will be redressal of grievances through an Ombudsman as provided in the Model Panchayat Legislation. (See Annexure.....). Both these institutions are needed for proper vigilance over PRIs.

In some states, the higher level of PRIs has been empowered to go through records and physically inspect schemes being taken up by any tier of the PRI.

2.9 Federation of Panchayats

Every elected representative of the PRIs at all three levels should be a primary member of the Association of elected members which will be federated as described below. This is designed to unite members across all the levels of PRIs and across States up to the national level. Although such federations of lower units of government are very common in Europe, so far attempts to build such federations have not been very successful in India. It is easier to form federation of SHGs since it is an economic and permanent entity. However, it is difficult to form federation of elected representative since they are transient. Moreover, Panchayats themselves do not have resources to pay TA/DA to office bearers to undertake tours unless the tour is official and is at government intervention. An All India Council of Mayors with more than 100 cities as members does exist in the country on the urban side. However, this became possible because Municipal Corporation is financially more independent and they are older than the modern Panchayats.

The composition of the federation from the grassroots level upwards could be as follows:

(a) There shall be an Intermediate Level Association at each intermediate Panchayat level. The general body of the association shall be comprised of three members selected from each Gram Panchayats. The intermediate level association shall also provide adequate representation for elected representatives of intermediate Panchayats. For the areas under the fifth Schedule, one member shall be chosen from each Gram Sabha to the Intermediate level Association.

(b) There shall be a District level Association for each district. The general body of the association shall be comprised of three members selected from each intermediate level

association. The district level association will also provide adequate representation for elected representatives of District Panchayats. Adequate representation for village Panchayat representatives in the District level Association must be ensured.

(c) There shall be a State Level Federation for each State, the general body of which shall be comprised of three members elected from each district level association. Each of the three members selected from the district will represent one level of Panchayat.

(d) There shall be a National Level Federation of elected Panchayats representatives, the general body of which shall be comprised of three members elected from each State level association. Each of the three members selected from each State shall represent one level of Panchayat. Representation from States may be increased depending on the rural population of the State.

Every Association and Federation will have its own fund, into which may flow contributions from the Panchayats, State and Central Government, the public, NGOs, banks and funding sources.

The federations and associations will sustain and promote their networking activities through the internet, video conferencing and regular broadcasts over television and community radio on Panchayat programmes.

2.10 Panchayat and the Civil Society

All possible steps need to be taken for creation of an ambience so that the PRIs and civil society mutually reinforce each other in better understanding of the issues and in strengthening the processes for good governance. The interface between civil society and PRIs, nevertheless, needs to be watched with care. Too much emphasis on the NGOs may weaken the Panchayats without producing a better alternative.

2.11 Action Points:

Chapter Three FUNCTIONS OF THE PANCHAYATS

3.1 Functions of a Model Local Government

Drawing on the experience of mature Western democracies, the major functions of a model local government can be placed into following six categories:

- Governance and regulatory
- Agency functions
- Civic Services
- Economic Development
- Social justice
- Environment and Natural Resource Management

These can serve as an ideal for PRIs in India.

3.2 Constitution and the functions of Panchayats:

Article 243G, read with the Eleventh Schedule, stipulates that State Legislative may by law endow the Panchayats with such powers and authority as may be required to enable them to function as institutions of self-government. Such laws may also provide for the devolution of powers and responsibilities upon Panchayats for the preparation and implementation of plans for economic development and social justice as may be entrusted to them, including those in relation to the 29 matters listed in the Eleventh Schedule.

Agriculture, incl. extension	Drinking water	Cultural activities
Land improvement, land reforms, consolidation soil conservation	Fuel and fodder	Markets and Fairs
Minor irrigation, water management watershed development	Roads, culverts, bridges, ferries, waterways other means of communication	Health and sanitation hospitals. Primary health centres dispensaries
Animal husbandry, dairying and poultry	Rural electrification, distribution of electricity	Family welfare
Fisheries	Non-conventional energy	Women & Child development
Social forestry farm forestry	Poverty alleviation programme	Social Welfare, Welfare If handicapped and mentally retarded
Minor forest produce	Education, including primary and secondary schools	Welfare of the weaker sections, in particular of SCs and STs
Small scale industries, food processing industries	Technical training vocational education	Public distribution System
Khadi, village and cottage industries	Adult and non-formal Education	Maintenance of community assets
Rural housing	Libraries	

3.3 Devolution and Activity Mapping

(a) Devolution by the States

Devolution of 3Fs by the States are highly uneven across States. While across the key sectors, the State Panchayat laws mandate a role for the Panchayats, in most cases, the law is ambiguous enough to allow for both decentralized and centralized modes of programme- or service- delivery to co-exist. In some cases, where the states have clearly devolved such responsibilities to the Panchayats, these are either still largely being provided in a top-down manner through the state civil service machinery or the ability of Panchayats to deliver these is limited because of the deficient financial and administrative powers and, therefore, services continue to fail the citizen. Doubts are often expressed about the capacity and accountability of PRIs. This is a vicious circle since, unless 3 Fs are devolved, the PRIs would not be able to prove their comparative advantage. Empowering Panchayats, with clear roles and authority assigned to different levels through activity mapping, is a strong incentive to build capacity and also to get other pre-requisites for effective performance into place.

(b) Need for Activity Mapping

Clarity on the role and responsibilities of the Panchayats of different tiers is provided by the Activity Mapping which, thus, becomes an important step in the devolution of functions to the Panchayats.

Further, the 2nd ARC in its Sixth Report relating to the Local Governance, has recommended that there should be a clear cut delineation of functions for each level of the local governance. This is not a onetime exercise and has to be done continuously while working out locally relevant socio-economic programmes, restructuring organizations and framing subject matter laws.

It may be noted that the Activity Mapping does not imply that the subjects are devolved wholesale. The Subjects or Sectors need to be unbundled and assigned to the different levels of Government on the basis of clear principles of public finance and public accountability, and above all, the governance principles of Subsidiarity, Democratic Decentralization and Citizen-Centricity.

The result of good Activity Mapping would be to clearly identify where competence, authority and accountability lie. Good Activity Mapping would permit higher levels of Government to concentrate more on policy making, legislation, system building, addressing issues of equity & regional imbalances and effectively discharging oversight responsibilities. There is generally a strong case for giving the Gram Panchayats the responsibilities of asset creation, operation, and maintenance, while involving it in the planning process through the Gram Sabha; giving the middle tiers responsibilities for human capital development; and giving higher levels of government the responsibility of policy, standards and monitoring of outcomes.

(c) Steps in Activity Mapping

The first step towards activity mapping is the unbundling of each Sector into services, activities and sub-activities to a level of disaggregation that is consistent with the devolution. For example:

- Rural Education, Health, Drinking Water and Sanitation are Sectors.

- Education would include services such as Primary, Secondary and Tertiary Education and Vocational Training.
- Services can be further unbundled into activities. For example: Basic education could be unbundled into activities such as:
 - identifying and recruiting persons with appropriate teaching skills
 - monitoring teacher attendance
 - procuring & maintaining an inventory of educational materials & equipments
 - setting up school buildings with adequate drinking water & sanitation facilities
 - repairing & maintaining existing schools and
 - ensuring an even spread of teachers, wherever necessary.

The detailed Activity Map prepared by Kerala State could be a good reference-point for the Activity Mapping. The States could consider adopting this with suitable modifications taking into account the wide diversity in their size (area & population), devolution of functions, relationship between the 3 Tiers, capacity of PRIs, terrain, climate, etc.

Along with the activities to be devolved, some Institutions would have to be transferred to the Panchayats for maintenance and upkeep.

Finally, the Activity Map will need to be issued in the form of a detailed Government Order (GO).

(d) Transfer of Functions to PRIs

Pursuant to the GO suggested above, each Line Department will need to issue orders for transfer of specific Schemes, which should be relatable to the individual Heads of Account in the State Budget. Moreover, since long established codes prescribing technical standards and approval processes (such as the PWD code, circulars, transfer orders, etc.) would have a tendency towards continued implementation of the devolved functions through the Line Departments, the Departments would need to issue consolidated revised guidelines for the schemes to be implemented through the Panchayats. The role and action to be taken by the institutions, officials and non-officials at different levels should be clearly mentioned in these guidelines.

Moreover, the devolution should not be limited to the planning and promotional responsibilities but also the implementation.

Furthermore, matching devolution of funds and functionaries is also required for PRIs to perform their assigned functions effectively.

3.4 Role of Centrally Sponsored Schemes (CSSs) and Additional Central Assistance (ACAs) in devolution of 3Fs upon the PRIs:

The Union Government has a critical role to play in the devolution of 3Fs upon the PRIs, because of its basic responsibilities to ensure governance in accordance with the constitutional provisions and also because of the increasingly large fiscal transfers it makes to the States in the functional domain of the PRIs, mainly through CSSs and ACAs. Every scheme guideline is a

potential vehicle to carry the message of strengthening Panchayats as envisaged by the constitution and the impact of such signals cannot be underestimated.

MoPR has vide its letter dt. 19.1.09 on the delineation of role and responsibilities of the Panchayati Raj Institutions (PRIs) in CSSs and ACAs, elucidated on:

- Constitutional provision relating to the responsibilities of the PRIs in the planning and implementation of schemes
- Critical role of the CSSs or ACAs in devolution of 3Fs upon the PRIs (including an indicative activity matrix)
- Comparative advantages of PRIs over the departmental structures in the planning, implementation and monitoring of schemes
- PRIs and District Planning Committees (DPCs) as the appropriate mechanism for convergence of plethora of schemes, pooling of resources and better outcomes
- Essential features that scheme guidelines should incorporate
- Disadvantages of creating parallel bodies to the exclusion or dilution of the role of the PRIs and its Committees.

Any direct and upfront involvement of PRIs in the planning and implementation of CSSs/ACAs – that is otherwise done through departmental structures – does impact outcomes positively by making interventions more appropriate, location-responsive and user-friendly. The scheme guidelines, therefore, need to be modified to:

- provide centrality to PRIs (which would also enhance the coverage & outreach)
- specify roles & functions of different levels of Government, including the three tiers of the PRIs, through detailed Activity Mapping.

More specifically, the scheme guidelines must pay attention to the following aspects:

- Annual action plan of the scheme should flow out from the participatory & holistic decentralized plan of the concerned tier.
- Every activity assigned to a specific level of Panchayat needs to be supported with appropriate authority over functionaries and powers to handle finances.
- Sufficient untied or flexible funds must be provided to address specific local needs and also for meeting the additional administrative expenses of PRIs on account of the central schemes.
- Fund Transfers: Specific mode and time line by which funds are transferred must be specified as also the entities that handle funds and the system of utilization report. Seamless and time bound flow of funds to the expenditure levels or just-in-time delivery of funds would both require IT for electronic tagging and for tracking of funds.
- Specific measures to build competencies at the appropriate level with training programmes, modalities of training, basic core content and pedagogy, FAQs, self learning tools, IEC literature etc. 1-2% of the total funds could be earmarked as non-divertible for the purpose.
- The method by which accountability will be measured and enforced.

- The guidelines must also specify how the data on the planning and implementation of the scheme will be placed in the public domain through suo moto disclosures, its process and periodicity.
- Details are required of the annual audits and evaluation mechanisms prescribed.
- Systems for financial accountability must be put in place taking care not to violate specific financial rules and guidelines.
- System of performance based rewards for Panchayats needs to be instituted as has been done in the case of Rural Sanitation Programme (Nirmal Gram Puraskar).

Each CSS entrusted to the Panchayats for planning and implementation should earmark separate allocations to meet the costs of administration on the pattern of the 6% earmarked for this purpose under MGNREGA. It should be permitted to use an earmarked part of such allocations for training, manpower, MIS and evaluation.

3.5 Parallel Bodies and the functioning of PRIs

Often, Parallel Bodies (PBs) are created for supposedly speedy implementation and greater accountability. However, there is little evidence to show that such PBs have avoided the evils including that of partisan politics, sharing of spoils, corruption and elite capture. ‘Missions’ (in particular) often bypassing mainstream programmes, create disconnect, duality, and alienation between the existing and the new structures and functions. In addition, there are issues of continuity beyond the life of CSSs or ACAs, subsequent operation & maintenance and continued accountability. PBs usurp the legitimate space of PRIs and demoralize the PRIs by virtue of their superior resource endowments, though such resources are available only during the lifetime of schemes. Arguments such as protection of funds from diversion have now weakened since advances in core banking systems, treasury computerization and connectivity can enable instantaneous, seamless and just-in-time transfer of funds directly to the implementing PRI. Expenditures by PRIs can also be monitored on a real time basis thus doing away with the need for intermediate parallel bodies to manually transfer funds and collect, pool and analyse data on expenditures.

Ministries should, therefore, rapidly phase out such PBs from their schemes. If necessary, the technical & professional component of these PBs could be retained as Cells or Units within the PRIs, for carrying out their technical & professional functions.

Chapter Four

FUNCTIONARIES OF THE PANCHAYATS

4.1 First Round Table Resolutions on Manpower for PRIs

The issue of capacity of the PRIs was deliberated upon in the 1st Round Table of Ministers in-charge of Panchayati Raj held at Kolkata on 24th-25th July, 2004 where the following resolutions were adopted:

- (i) Devolution of functionaries to the PRIs should be patterned on the mapping of activities related to the devolved functions.
- (ii) Where deputation of State Government officials is required to assist the PRIs in planning or implementing the devolved activity, the officials concerned must be primarily responsible to and be under the disciplinary supervision and control of the elected authority.
- (iii) With a view to building a cadre of officials and technocrats specialized in the devolved functions of the PRIs, States or UTs may consider instituting a Panchayati Raj Administrative and Technical Service, with the States or UTs discontinuing further recruitment of staff to State services for such devolved functions.
- (iv) Reconceiving the role of District Rural Development Agencies (DRDAs) as an important instrument for PRIs development through the progressive merger of the DRDAs with the District Panchayats: The technical expertise and other facilities of the DRDAs should become available to all tiers of the PRIs under the overall responsibility and disciplinary control of the elected authority.

4.2 Second Administrative Reforms Commission (ARC) and Panchayat Manpower

The 2nd Administrative Reforms Commission (ARC), in its 6th Report titled 'Local Governance—an inspiring journey into the future,' has made the following recommendations:

- (i) Panchayats should have the power to recruit personnel and to regulate their service conditions subject to such laws and standards as laid down by the State Government. Evolution of this system should not be prolonged beyond three years. Until then, the Panchayats may draw upon (for defined periods) staff from departments or agencies of the State Government, on deputation.
- (ii) In all States, a detailed review of the staffing pattern and systems, with a zero-based approach to PRI staffing may be undertaken over the next one year in order to implement the policy of PRI ownership of staff. The Zila Parishads, particularly, should be associated with this exercise.

4.3 Devolution and Manpower for the PRIs

(a) Manpower for the Panchayats

Logically, for the subjects listed in the 11th Schedule and others that have been devolved,

the Panchayats should have the power to: recruit personnel, regulate their service conditions, exercise control over them, subject to such laws and standards as may be laid.

However, due to several factors such as (i) service conditions of the existing employees, (ii) lack of enabling administrative and legislative environment for transferring State Govt. employees to the Panchayat Cadre, (iii) resistance from the existing employees etc., there would be problems in implementing this arrangement.

Therefore, the following transitional and permanent arrangements with a definite time line are suggested:

(1) Gram Panchayat Cadre

A Panchayat should normally have four categories of staff :

- (i) Core staff for its internal processes: PDO/Secretary, Accountant, Technical Assistant and Extension Officer. Given the ever increasing responsibilities and complexity of the task in the GP, it would be desirable to create a post of Panchayat Development Officer (PDO) with a degree/diploma in Business Administration, Rural Management or a similar degree.
- (ii) Scheme Specific Staff: for example, MGNREGA provides
 - (a) for GP: Gram Rozgar Sewak;
 - (b) for Block Panchayats: one Programme Officer, a pool of few Technical Assistants to service GPs; Computer Assistants and Accountant, and
 - (c) for District Panchayats: Works Manager with Technical assistant, IT Manager with Computer Assistant, Accounts Manager with Accounts Assistant, Coordinator for social audit and grievance redressal.
- (iii) Functional Staff: such as Teachers, ASHA, Anganwadi workers.
- (iv) Contractual skilled workers: such as Motor Mechanic, Hand Pump Mechanic, and Electrician.

(2) District Panchayat Cadre

District Panchayat Cadre (DP Cadre) could be comprised of officials that have jurisdiction over areas larger than a GP. Employees of DP cadre would supervise the work of the functionaries at the GP level. Examples of this would be: Extension Officers, junior engineers etc. Some employees listed above for GP cadre could also fall in this cadre.

The DP cadre could be constituted by a judicious mix of direct recruitments and promotion from GP Cadre. Only those found to be meeting expected standards measured in quantifiable terms should be considered for promotion.

(3) State Cadre

Ideally, even Class I & II officers should belong to DP Cadre. However, during the transition period, this cadre could be a State Cadre and people from this cadre should be posted on deputation to District/Intermediate Panchayats.

(4) The possible promotional channel could be illustrated as follows:

- i. Panchayat Secretary (GP Cadre)/Village Development Officer (DP Cadre)//Extension Officer (Panchayat) (DP Cadre)/-BDO (State Cadre) -Further promotions as per State policy.
- ii. Anganwadi Worker (GP Cadre)-// Mukhya Sevika (DP Cadre)/ --ACDPO (DP Cadre) CDPO (State Cadre) / /State Directorate/Commissionerate.
- iii. Agriculture Asstt. (GP Cadre) / Extension Officer (Agr.) (DP Cadre)
- iv. Agriculture Officer (DP Cadre) -/ ---State Cadre

(5) If the area of operation of these functionaries is a GP, they should be fully answerable to GP (even though recruited by the District Panchayat). Eligibility, service conditions and recruitment procedure for this group could be specified by the State Government without diluting the authority of GPs.

The existing staff on these posts should be allowed to continue till they superannuate/retire or are promoted. The resultant vacancies should be filled up by GP cadre alone.

It is well recognised that the size of Panchayats varies widely from State to State and, therefore, the core and other staff strength, mode of selection, appointment etc., may not be uniform. Reasonable norms based on the area/population/terrain of the Panchayat and functions devolved need to be laid down.

As regards the creation of a Panchayat cadre, the Maharashtra model is worth considering.

Resources for deploying core staff of Panchayats could be found out of the State resources, BRGF, MGNREGA, Finance Commission Awards etc. as per a well considered phasing. Other staff could be financed under the existing Plan/non-Plan arrangements.

4.4 Action Points

4.4.1 Adequate Manpower should be provided to the Panchayats as stipulated in paras 4.3 above.

4.4.2 Administrative reforms of this nature would require an extensive study of existing cadres, staffing patterns, strengths of each cadre, Recruitment Rules etc. The Recruitment Rules for these cadres would require amendments to reach the final destination without disadvantaging to the existing personnel. MoPR would support the States in engaging reputed consultancy organizations to commission studies to:

- (i) Compile information of all cadres, their strengths, vacant positions, anticipated future vacancies with time lines, Recruitment Rules etc.
- (ii) Make recommendations on rationalization/ convergence of various cadres.

- (iii) Suggest changes required in Administrative Orders and rules, etc. for implementing the accepted recommendations.
- (iv) Suggest other implementable measures that would result in transition to the desired state along-with time lines.
- (v) Give Job description for each of the posts and develop skill development matrices for training of persons to discharge their duties assigned to them efficiently.
- (vi) Make appropriate recommendations for performance measurement at each of the levels in GP and DP Cadres.

4.4.3 Panchayat Staff to support MGNREGS:

Since MGNREGA mandates the Panchayats as the planning & implementation agency, one Panchayat Development Officer and one Technical Assistant should be provided to each Gram Panchayat or a cluster with 5000 population for using MGNREGS funds.

Chapter Five

PANCHAYAT FINANCES AND ACCOUNTING

5.1 Share of Panchayats in GDP

Over the last decade the own sources of revenue of PRIs have been less than ten percent of their expenditure. In contrast, more than 90 percent of their expenditure has been financed through CSS, ACA or other government grants; the major recipient of this source being the Gram Panchayats.

Data from the Thirteenth Finance Commission shows that Panchayat's own sources of revenue are very meager. 5 out of 25 states reported 'nil' as own sources of revenue of the Panchayats. Only in the three states – Goa, Kerala and Haryana – did the Panchayats report more than Rs. 100 per capita coming out of their own revenue-sources. In contrast, per capita expenditure through GPs was more than Rs.500/- per capita in three states of Chhattisgarh, Goa and Kerala.

5.2 Constitutional Provisions on Panchayat Finances

The taxation power of the Panchayats essentially flow from Article 243H, which reads that “the Legislature of a State may, by law

- authorize a Panchayat to levy, collect and appropriate such taxes, duties, tolls and fees in accordance with such procedure and subject to such limits;
- assign to a Panchayat such taxes, duties, tolls and fees levied and collected by the State Government for such purposes and subject to such conditions and limits
- provide for making such grants-in-aid to the Panchayat from the Consolidated Fund of the State; and
- provide for constitution of such funds for crediting all moneys received, respectively by or on behalf of the Panchayat and also for the withdrawal of such moneys there from as may be specified in the law.”

Article 243-I of the Constitution mandates setting up of State Finance Commission (SFC) with the objective of reviewing the financial position of the Panchayats and making recommendations as to the principles which should govern the following:

- distribution between the States and Panchayats of the net proceeds of the taxes, duties, tolls and fees,
- determination of taxes, duties, tolls and fees to be assigned to Panchayats,
- grants-in-aid to the Panchayats, and
- measures needed to improve the financial position of the Panchayats.

5.3 2nd ARC

The 2nd Administrative Reforms Commission (ARC), in its 6th Report titled ‘Local Governance—An inspiring journey into the future’ has drawn the following broad conclusions on Panchayat Finances:

- Panchayats are heavily dependent on grants from Union and State Governments.

- A major portion of grant from the Centre and States is scheme specific. Panchayats have limited discretion and flexibility in incurring expenditure.
- In most of the critical Eleventh Schedule matters like primary education, healthcare, water supply, sanitation and minor irrigation even now, the State Government is directly responsible for implementation of the relevant programmes and hence expenditure.
- Internal resource generation at the Panchayat level is weak. This is partly due to a thin tax domain and partly due to Panchayats' own reluctance in collecting revenue.
- Overall, a situation has been created where Panchayats have responsibility but grossly inadequate resources.

5.4 Fiscal Decentralization

(a) Need for Fiscal Decentralization

There is an imperative need for an effective fiscal decentralization so as to ensure that the finances available with the Panchayats match the transferred functions based on activity mapping for the devolution of 3Fs.

Further, there is a need to re-orient the regulatory and policy regime and give the Panchayats more tax-handles as also to ensure that the taxation powers given are effectively exercised since generating own revenue is the best way to increase autonomy, efficiency, credibility & accountability of Panchayats.

Moreover, fiscal decentralisation needs to be viewed as a comprehensive system beginning with the assignment of expenditure and revenue responsibility.

The Twelfth Finance Commission, on the basis of some studies, has suggested measures such as making it obligatory for PRIs to levy certain taxes, prescribing minimum revenue collection, levy of user charges, higher efficiency in tax collection, economy in expenditure and transparency in functioning.

(b) Role of State Finance Commissions (SFC) in Fiscal Decentralization

State Finance Commission grants are mostly in the nature of fixed grants, remaining static for a period of five years.

Kerala, however allots three eighth of the amount of the basic tax collected by the Government to the village Panchayat. Thus, the income of the village Panchayat automatically increases with the increased tax revenue of the state government.

SFCs should consider devolving share of tax income (like the 13th FC) instead of fixed grants to the Panchayats.

Processes of fiscal devolution from states to the Panchayats are taking place through SFCs. The States have the basic responsibility of enhancing the credibility & acceptability of the SFCs. The SFCs, therefore, need to be strengthened and their work

and reports streamlined in many ways including some standardization in their methods and approaches as advised in our letter dt.

(c) Central Finance Commission (CFC) Devolutions

CFC has been devolving sizeable grants to the PRIs since the past two decades. The 10th CFC devolved Rs.4384 crores to PRIs for the 1996 to 2000. This amount increased to Rs.8000 crores – an increase of 1.8 times – during 11th CFC's term of 2000-2005. This further increased 2.5 times during the 12th CFC (2005-10) to Rs.20,000 crores.

The 13th CFC – has devolved Rs.63,150 crores on the PRIs over the period of next 5 years. As compared to the 12th FC grants, this is an increase of almost 220%. The 13th FC has linked devolution to a share of divisible tax pool instead of fixed grants. The Commission has also allotted a performance grant subject to the fulfillment of stipulated conditions which are expected to bring about considerable improvement in the working of the Panchayats.

(d) Scheme Transfers

Scheme transfers through CSS, ACA and other such schemes constitute the major source of finances for the Panchayats, having amounted to about 90% in the last decade. As mentioned elsewhere this makes it all the more important to guard the centrality of Panchayats in the working of these schemes.

(e) Devolution of funds to PRIs to be generally untied

Funds to PRIs are being transferred under a number of budget heads; often, in packets of small allotments against a plethora of agency functions vis-à-vis Central and State schemes.

Except for the CSSs and ACAs Schemes serving national priorities/objectives as also the purpose-specific programmes of the States, all allocations to PRIs should be untied. This will allow the PRIs to have the flexibility to plan and implement their programmes in accordance with the local priorities. The scheme guidelines should contain only a brief description of the objectives and expected outcomes. Furthermore, centrality of PRIs in implementation of these schemes must be guarded.

Largely untied funds are provided to the States for PRIs under Backward Regions Grant Fund (BRGF). BRGF intends to

- promote decentralized, participative & holistic planning process, as an essential condition for getting BRGF grant
- bridge the critical gaps in development not met through the existing inflows
- build capacity of PRIs & official functionaries.

(f) Incentive for raising own revenues

Providing incentive is an effective tool for motivating individuals and institutions for better performance. Accordingly, PRIs showing higher revenue collection – including

adopting innovative steps – should be suitably rewarded viz. by linking some part of the award of the Finance Commissions to the revenue generation efforts.

The existing Panchayat Empowerment and Accountability Incentivisation Scheme (PEAIS) could be modified for greater weightage to the revenue efforts.

States should also devise their own incentive and/or award mechanisms.

(g) Institutional Credit

Some Gram Panchayats in Kerala have accessed bank credit for PPP projects such as shopping complexes and bus stands.

Similarly, institutional credit would also be available to other states for strengthening of Panchayats. Institutional credit would generally be available to solvent Panchayats for good projects. However, no Panchayat seems to have obtained an institutional credit rating as yet.

(h) Market Borrowing

Strong PRIs need to be encouraged within the State Government guidelines to borrow from the market on the strength of their credit viability for infrastructure and income generating projects. Once these projects start showing positive results, the financial institutions would be inclined to step up lending.

(i) Transfer of funds to the PRIs

Increasingly large amount of funds are being transferred under various schemes from Government of India (GOI) to the State Governments for further transmission to the Implementation Entities (IEs). Reforms are needed to:

- i) Reflect the changed content of programmes;
- ii) Enable tracking of actual expenditure (not merely the releases) with necessary details.
- iii) Provide timely and reliable Management Information, out of the huge magnitude and complexity of transactions, which is useful for monitoring and decision making;
- iv) Eliminate the large float in the system, due to the Special Purpose Entities (SPEs) created purportedly for efficient transfer of funds.
- v) Bring SPEs into the formal structure of accountability, including audit by CAG.

The Planning Commission along with Ministry of Finance, Controller General of Accounts (CGA), State Governments and Comptroller & Auditor General (CAG) are working on the Central Plan Scheme Monitoring System (CPSMS) to address the above issues. Till such time the larger system under CPSMS is put in place, Ministry of Panchayati Raj (MoPR) has worked out a mechanism for efficient Management of programmes, funds, and planning functions.

This mechanism in fact offers a common platform that could be used for aggregation of information including for assessing inter-relationships among programmes and can be easily integrated into the CPSMS as & when it is rolled out.

The CBS along with the ‘Authorisation’ system, would not only address most of the problems mentioned above but also enable vastly improved financial management and transparency as mentioned below :

- (a) At the click of the mouse, authority concerned will get information on both the “Authorisations” and the “fund flows”, through the CBS.
- (b) The CBS would report the actual payments (not merely releases by the higher level) each day and the State funds would be debited accordingly.
- (c) Rapid authorization and payments to the IEs would be possible, as the new mechanism would eliminate the extensive paper work, clerical queries and resultant harassment down-the-line, avoiding delay in implementation, and the States/Ies enabled to use their full entitlement.
- (d) Transparency would be ensured by making information available on line in the public domain. This would also facilitate social audit. Citizens could report any discrepancy between the information displayed and the actual.
- (e) Ways and means position of both the Central and State Governments would improve as float/parking in the system would be eliminated.

(j) Clarity of devolution in State Budgets

A key step in providing clarity on fund devolution to Panchayats pertains to the creation of Panchayat Sector windows in the budgets of State governments. This requirement can be met in two ways. Each Department could create separate line items in their budgets for Panchayats, earmarking allocations pertaining to responsibilities devolved and schemes entrusted to Panchayats. Departments can thus directly send their funds to Panchayats in accordance with these ear-marked budget line items.

Alternatively, all such earmarked funds pertaining to different departments could be consolidated by the State Finance Department and sent to Panchayats in regular installments. Seven States, namely, Chhattisgarh, Gujarat, Karnataka, Kerala, Madhya Pradesh, Maharashtra and Rajasthan have provided for a separate Panchayat Sector component in their State budgets. However, the efficacy of the system varies differently from State to State and mismatches between functional assignments and fiscal transfers continue to exist.

(k) Commensurate Staffing and Capacity Building

The above efforts may not bear outcomes if not supplemented by providing the PRIs with adequate manpower, mentoring and guidance. The States should, therefore, strengthen the administrative and enforcement capacity of Panchayats through proper staffing including; outsourcing, frequent training programmes comprising well-structured modules (possibly with the help of ICAI) ,simple guidelines, etc.

Sufficient funds for this purpose are available for 250 BRGF districts under BRGF and for non-BRGF districts under RGSY.

(1) Fiscal Responsibility Regime

MoPR seeks to provide guidance to the PRIs on developing a fiscal responsibility regime through its model Fiscal Responsibility bill. The States could enact the model bill with modifications as appropriate. The major objectives of the model Bill are: Medium term fiscal plan, Principles of Financial Management, Transparency in Financial Management, Principle of audit of accounts, Adherence to audit report, Measures to enforce compliance.

5.5 Finances of the Panchayats

Tax revenues from those on land and buildings, etc. and non-tax revenues (for example, from auction of Panchayat resources) could be an important contributor to their finances. Although these sources provide the main income to the Panchayats of some states, there is an utter neglect of own revenue sources designated to the Gram Panchayats in many states. There is no systematic effort either by the State Governments or by the Panchayats to fully tap their assigned sources of revenue.

Some sources of finance for PRIs, especially Panchayats, are discussed below:

(a) Tax domain of Panchayats and its realization

A study of State Legislations indicates that the Village Panchayat finances include more than 60 taxes & fees including octroi, property and house tax, profession tax, land tax, taxes/tolls on vehicles, entertainment tax/fee, license fee, tax on non-agricultural land, fee on registration of cattle, sanitation/drainage/conservancy tax, water tax, lighting tax, education cess and tax on fairs and festivals.

Panchayat resources could also be augmented through innovative tax/non-tax measures e.g., fee on tourist vehicles, special amenities, restaurants, theatres, cyber cafes, etc. as some Panchayats are doing.

Further, all common property resources vested in the Panchayats need to be identified, listed and made productive for revenue generation. Panchayats could be empowered to collect cess on the royalty and additional/special surcharge from minor minerals, forest produce and other natural resources since the financial, ecological and health impact of such activities is felt maximum in the surrounding areas and inhabitants.

The State Governments should focus on prescribing band of rates for such taxes and levies, mentoring, strengthening and incentivising Panchayats.

(1) Tax on Lands and Building

Almost all over the world, the main tax revenue of habitations is tax on lands and buildings. It is seen that this gives a sizeable income to the village Panchayats in Maharashtra, Kerala and Karnataka. However, certain northern states have abolished this tax, thereby depriving the Village Panchayats of their important source of income. Since this is the major tax for large habitations, small habitations must make a beginning in assessing the residential and commercial properties. Kerala charges property tax on all buildings and land appurtenant thereto as a percentage of the net annual value of the

building. For buildings given on rent, twenty five percentages is added to the tax rate. This practice seems to be the best since it should give an elastic source of revenue to the Panchayats.

(2) Other Taxes

Earlier the profession tax was the main source of income to the village Panchayats. However, in many States this tax has been taken over by the State Government and a small compensation is paid to the village Panchayats. Advertisement tax, entertainment tax, shows tax is also levied in some States. However, they form a negligible source of income to the village Panchayats.

(b) Non-tax revenue

(1) Auction of Panchayat land, ponds, etc.

Gram Panchayats in some northern states are allowed to annually auction village Panchayat lands for cultivation—for example, Shamalat lands in Haryana. In certain other areas, annual auction of other resources like fishery ponds is done which gives the Panchayats some non-tax income. In particular, this is an important source of income for the Panchayats of Haryana and Punjab.

(2) User Charges

The charges recovered for services such as water supply and sanitation are user charges. However, these are more often not levied/collected.

5.6 Accounts and Audit System

The need for having a simple and robust accounting and reporting system for the PRIs is evident. MoPR has been working with the CAG on such a system; having appropriate MIS/DSS window as well as covering both the agency and core functions of PRIs. The proposed e-Panchayat Project of the MoPR – which would also house the PRI Accounting System Software (PRIA Soft) – should facilitate the process.

(a) Panchayat Accounting System

Based on the recommendations of the Eleventh Finance Commission, the formats for the preparation of budgets and accounts and database on finances of PRIs were prescribed by the CAG in 2002. These formats were further simplified in 2007 for easy adoption at ground level; and again in 2008. The salient features of this simplified format of accounts are (briefly)-

(b) Audit

Audit of accounts of the local bodies needs to be conducted as per the recommendations of the Thirteenth Finance Commission. The Commission recommends that audit of the accounts of all Local Bodies (both urban and rural at all levels) may be done under the Technical Guidance and Supervisions (TGS) of the CAG.

State Governments may constitute separate committees of Legislature for discussion of the Annual Technical Inspection Reports (ATIR). This will ensure accountability as suggested by second ARC.

5.7 Action Points

Sound finances of the Panchayats are a Constitutional obligation and, in pursuit of that, the States and the centre must work together in a true spirit of fiscal federalism to strengthen finances of the PRIs. To begin with, the following action-points are suggested:

- Prepare details about assessed tax, collection made and arrears, in respect of each tax and non-tax revenue, for each level of Panchayats, through the permanent SFC Cell in the State Government.
- Analyse Data collected for identifying broad trends among Panchayats and for identifying champions and innovations. Compile such good practices.
- Undertake a campaign to overcome the large slack in revenue collection.
- Prepare a compendium of the relevant legal provisions and executive orders in respect of the administration of taxes by PRIs, incentivisation programmes, innovations, recommendations of the SFC etc.
- Assist the SFC to lead policy work for (a) exploring appropriate tax and non-tax revenue assignments, (b) ways and means of administering and enforcing them including manpower & training and (c) achieving a greater linkage between revenue-collection and spending decisions at the local level.
- Rationalise the number and type of Taxes, and assign at least a few important taxes to each level of Panchayat.
- Re-examine the current rates of taxation and consider an upward revision, remove maximum limits fixed on tax as also the conditionalities that hamper or restrict taxation powers of Panchayats. Do not abolish taxes in Panchayat domain (for example, some States have abolished house tax).
- Incentivise tax efforts of Panchayats by reworking the formulae for devolution of funds and also provide for disincentives for non-performing PRIs.
- Fix user charges on a rationale basis and provide incentives to PRIs for enforcement.

The Ministry of Panchayati Raj should, on its part, assist the States in designing local solutions, designing training programmes, developing software solutions for tax management and networking with champions. It should also undertake analysis of the State trends to identify initiatives and drives, conduct periodical experience sharing workshop, support policy studies on local taxation particularly on ascertaining taxation capacity and designing incentive packages.

Chapter Six

CAPACITY BUILDING FOR THE PANCHAYATS

6.1 Dimensions of the Challenge

Capacity building of elected representatives and officials is critical to the empowerment of the Panchayats as the well-functioning institutions of local self-government. Moreover as the PRIs are being assigned increasing responsibilities in both developmental and regulatory activities, there is a growing concern about their capacity. The magnitude of the challenge is enormous: Around 30 lac Elected Representatives and official functionaries have to be trained every year.

6.2 National Capacity Building Framework (NCBF)

6.2.1 NCBF formulated by MoPR lays-down a comprehensive framework for building the capacity of PRIs. NCBF describes the preparatory activities, building up of the training infrastructure, developing a pool of resource persons, range of handholding activities required to sustain a capacity development effort, planning the logistics of implementation, and monitoring & evaluation of the capacity building efforts. It suggests training programmes in a range of areas, including the Centrally Sponsored Schemes (CSSs), indicating the duration, sequencing and the target category with timelines for completion of the training programmes, norms for strengthening the training related infrastructure and the pedagogical software.

6.2.2 Its overall objectives include:

- a. enabling elected representatives to upgrade their knowledge and skills to better perform their responsibilities
- b. orienting the officials to become more effective technical advisors and implementers of the ideas emerging from the elected representatives
- c. improving the functioning of the Gram Sabha as an important institution of local decision making
- d. sensitizing media, political parties, legislatures, civil society institutions and citizen to accept and promote the Panchayati Raj as an essential level of local government and for inclusive & participatory development.

6.2.3 CBT Plans

In 2007, several workshops were conducted to assist the States in working out the modalities of their capacity building plans, primarily for sourcing funds and implementing the Capacity Building Component under the BRGF programme. But the CBT efforts generally continue to be intermittent and discontinuous with one-off training programmes consisting of routine lectures by inadequately equipped resource persons. Some States – even though they have prepared plans in accordance with the template provided with NCBF – have not been able to implement them as per the schedule. This is particularly true in the case of the larger States.

Coverage, content, quality and frequency of training is a general issue for most of the State. The continuing aspects of training and handholding, such as Helplines, Newsletters and District/Block Resource-cum-Training Centres are yet to be established in most cases.

6.2.4 World Bank Evaluation:

An evaluation of the BRGF Programme was conducted through the World Bank in July 2009. The main recommendations in respect of Capacity Building component are as follows:

- Re-design the overall Capacity Building strategy to focus on demand-driven modalities.
- Provide a significant part of CBT support to the ZPs to put them in the driver's seat.
- Develop appropriate tools for CBT needs assessment.
- Ensure regular impact assessment of the CBT activities.
- Converge CBT activities and resources.
- Put in place State level CBT Coordinators.
- Make greater use of outsourcing model.
- TSIs for CBT be contracted by the ZPs, selected from a panel of qualified institutions.
- Introduce flexibility in the use of 5% component meant for staff augmentation.
- Ensure that ULBs too are adequately covered in all CBT activities.
- Establish a baseline for the PRIs/ULBs performance & capacities with indicators & benchmarks.
- Clarify links between reporting, utilization certificates, social audit and physical audit.
- Improve the sharing of good practices through IT, visits, exchange of information, peer reviews, etc.

6.3 Accounting CBT efforts

6.3.1 Consultations with State etc. :

In the consultation with the stakeholders in Dec. 2008, the following recommendations were made:

- Revitalize SIRDs through functional autonomy including powers to recruit faculty.
- Network NIRD, SIRD & other training institutions through a sustainable mechanism for identified objectives.
- Create Nation-wide pool of well-selected and trained master trainers.
- Establish and operationalise District & Block Resource-cum-Training Centres.
- Develop model curriculum & course content including computer based self-learning material.
- Have formal certification in the domain of Panchayati Raj
- Update training perspective plans and work out annual implementation plan.
- Assign known training experts to the relatively lagging States.

- Find alternatives to the present system urgently for the continuous training of 32 lacs ERs and 10 lacs OFs.
- Establish an autonomous Institution under MoPR for handling the task on an ongoing basis and also serve as the think-tank.

6.3.2 Diversifying CBT:

Obviously, there is a need to develop a nationwide movement and a different culture & approach to CBT including reorientation of the training institutions. Institutions closer to the people at the Block and District level need to be built, strengthened and associated in this gigantic task.

We also need to broaden the institutional support and look at options hitherto not considered on a significant scale such as Universities, NGOs, Private Organizations, etc. who can introduce the best training practices being used in the academic and corporate world to the task of CBT.

6.3.3 Public-Private Partnerships (PPPs) for institutional strengthening:

MoPR conducted a CBT Business Meet in January, 2010 attended by most of the States and about 150 Service Providers. The expectation on such partnerships is that it should lead to a major improvement in imparting quality of and continuous training to a larger number Possible The focus was on :

- Identification of suitable agencies for each State.
- Selection of the Service Provider(s) for the respective State; and
- Signing of State Support Agreement.

6.3.4 Cross-departmental efforts:

MoPR is in discussion with Ministries handling major Panchayat-centric CSSs (NREGS, NRHM, SSA, Literacy Mission etc.) on the issue of synergy in design, content and implementation of the training Programmes. A meeting with the relevant line Ministries, for example, recommended that the Saakshar Bharat Programme should have special focus on the illiterate ERs and the States should undertake special drive to develop trainers and training materials for the purpose utilizing the technical inputs from Saakshar Bharat. Similar efforts are required in respect of SSA, NREGS, NRHM, etc.

6.3.5 Training Material:

MoPR has, already, prepared an extensive repository of training material & personnel. Some computer-based self-learning material has also been prepared through Andhra Pradesh Academy of Rural Development (APARD). These are available for use to any training institution or body. A sample CD is also available (in the local language) for providing (after due customization) to every representative soon after his or her election and also to the officials, so that they could refer to it at their convenience and repeatedly. Similar, initiatives could also be taken by the States.

6.3.6 Helpline & Newsletters:

Helplines and newsletters on state-websites can be very useful. However, only a few States are publishing Newsletters. Newsletters need to be placed on the State website and provided either free or at nominal costs to all the Panchayat functionaries. As regards the Helpline, 21 States have so far obtained approval under BRGF and RGSY. Maharashtra and AP have already set up Helpline.

6.3.7 CDLG Project:

UNDP is assisting in capacity building in seven UNDAF States Bihar, Chhattisgarh, Jharkhand, MP, Orissa, Rajasthan and UP. through the CLDG project.

The focus areas of this project include:

- strengthening capacity development strategies
- policy research and network support
- advocacy and sharing of good practices
- community empowerment and mobilization
- project monitoring, evaluation and capacity development.

MoPR utilizes the national component for organizing interactive meets between the States for exchange of best practices and ideas, development of Online Repository, handbook for capacity assessment etc.

6.4 Training Infrastructure for CBT

6.4.1 Block Resource-cum-Training Centre (BRTC):

As of now, 2243 BRTCs have been sanctioned for 22 States under BRGF and 191 BRTCs for 4 States under RGSY. It is important to functionally integrate these centers with the existing arrangements for CBT activities and equip them with appropriate manpower that may be admissible under BRGF and other schemes.

6.4.2 Formal certification in the domain of PR:

Furthermore, it would also help to have formal certification for PRI training. Some institutions such as the Rajiv Gandhi National Institute of Youth Development (RGNIYD), IGNOU, etc. have launched Degree, Diploma and Certificate Programmes in Local Governance. States should popularize such courses among the ERs, OFs etc.

6.4.3 NIPR

There is no dedicated training & resource institution to catalyze capacity building needs of elected representatives and officials of the PRIs. In order to meet this need MoPR proposes to set up a NIPR to work as natural level training resource institutions which will provide bad role to State level institutions engaged in training & Capacity building of elected representatives and appointed officials of PRIs.

6.4.4 Decentralized Governance:

An online network of the stakeholders in decentralized governance including CBT

activities, has been developed through the CDLG Project (www.solutionexchange-un.net.in). Membership of this fraternity does not require any qualification or fee. Members seek and share their views, experiences and knowledge on relevant issues. States need to join hands to increase the membership and also open special portals in the regional languages, as done by Karnataka.

Special Focus Areas for CBT

6.5 CBT for Elected Women Representatives (EWRs) and Panchayat Mahila Evam Yuva Sashaktikaran Abhiyan (PMEYSA)

6.5.1 Government proposes to increase reservation for women in the PRIs from the existing at least 1/3rd to 50%. The number of EWRs would thus increase from less than 10 lacs to about 14 lacs. Obviously, many of them would be holding office for the first time with (probably) little knowledge, orientation and exposure to their expected functions. Besides, the EWRs face multiple deprivations on account of their gender, social bias, house-hold obligation, lower literacy, lack of confidence etc. Often, male members of their family usurp their functions.

6.5.2 For enabling EWRs to discharge their responsibilities effectively, their special needs should be met. Capacity building components of BRGF & RGSY schemes generally have not addressed these specific needs of EWRs.

For targeted empowerment of EWRs, PMEYSA Scheme was started. Its objective is to build confidence and capacity of EWRs so that they are able to get-over the institutional, societal and political constraints facing them. The strengths of PMEYSA are:

- building solidarity among EWRs
- creating opportunities for them to present their demands to different governments
- building capacity to take initiative
- devising innovative programmes.

6.5.3 State Government in this context need to:

- i. Review periodically implementation of PMEYSA including (a) setting up of EWR Federations at State and District levels, and (b) establishment of State Support Centre and its functioning
- ii. Utilize funds released, submit UC and propose further funding
- iii. Suggest improvement in the design and implementation of PMEYSA
- iv. Ensure convergence of PMEYSA with the related programmes.

6.6 CBT for Decentralized Governance and Decentralized Planning

6.6.1 Decentralized Planning:

PlanPlus software has been developed to demystify and simplify the decentralized planning process. The software is web-based, compatible for local language adaptation and captures the entire planning workflow starting from identification of needs and up to

the plan approval processes. It is generic and can capture the plans prepared by the line departments at the state and central level to generate the convergent unit plans for the Panchayats and the Municipalities and consolidate the same into the District and the State Plans. The Software enables convergence of the related schemes and programmes, brings about total transparency in the plan preparation and approval processes, and facilitates online monitoring. MoPR and NIC have organized training programmes for over 10,000 State and District level functionaries on the use of PlanPlus. To make it more popular and effective, more such training programmes are recommended, for which the persons trained before, besides the officers of the NIC, could act as the resource persons. Cost for such training could be met from BRGF and RGSY.

6.6.2 Panchayat Accounting

Realizing the critical importance of a sound accounting & audit system that ensures transparency & accountability and enhances credibility of Panchayats, MoPR along with CAG has introduced “Model Accounting System for Panchayats”(MAS). This is supported by PRIASoft (PRI Accounting Software) which works both online & off-line. Deployment of this would enable the Central and State Governments to track the flow and usage of funds. This would facilitate subsequent releases and also aggregation of data on Panchayat finances for higher level decision-making.

MoPR is working a plan for training of all Panchayat functionaries on the MAS and on PRIASoft. PPP mode for different components such as:

- i. Preparation of accounts manual and training manuals with PRIASoft interface
- ii. Conducting training at district/sub-district levels in States and hand holding following a defined approach & methodology
- iii. Appointment of a national-level agency to monitor the quality of training being imparted by agencies at the State-level.

6.7 Action points for CBT

In addition to the contextualized suggestions above, the states could also benefit from planning for CBT by observing the following:

6.7.1 Overall Preparation:

States need to set up adequate arrangements for assessment of training needs, design of training courses, a cadre of trainers (both full-time and part-time), development of training materials, timely conduct of training programmes and periodic evaluation of the outcomes. Improvements in lecture halls, hostel facilities, library, computer labs, etc. need to be done in the institutions. States could also propose setting up of District and Block Training-cum-Resource Centres.

6.7.2 Capacity Assessment:

A Committee comprising of MoPR, MoRD, MoUD, DoP&T and other organizations concerned was constituted for reviewing the capacities of the SIRDs and strengthening of the same. This was followed by a Workshop at Raipur on Capacity Assessment (CA) for

the State as a whole. UNDP Team has now prepared a Model CA Document for Chhattisgarh. Raipur Workshop identified and trained 11 experts in CA and assigned them a few States each. States need to pursue the matter and utilize the services of these experts for undertaking the task systematically and within a specific time-frame.

6.7.3 Time Schedule:

The cycle of CBT activities broadly commences with the elections to the PRIs, which were last held in many States during 2006-07. The States need to gear up the arrangements for providing the first round of training to the ERs within 6 months of the elections. This needs to be followed up with periodic training in line with the NCBF.

Chapter Seven DECENTRALIZED PLANNING

7.1 Need for Decentralized Planning

Central/ State Schemes and District Planning Committees (DPCs)

It is widely recognized that most of the schemes exist in silos, planned and implemented as standalone schemes, without any horizontal convergence or vertical integration, resulting in multiple district plans – unrelated to each other and often mutually conflicting – prepared without any integrated vision or perspective. The existing mechanism of implementation is also not very effective, efficient and economical.

The much needed convergence of related schemes & resources is possible only through the mechanism of constitutionally mandated decentralized and holistic planning through LSGs and the District Planning Committees (DPCs). Planning Commission's guidelines elucidate this (see Annexure...). And the Eleventh Plan document details several steps such as activity mapping, creation of Panchayat sector windows in the State & Central budgets, and IT enabling of Panchayats as key steps in this direction.

The need for integrated local area plans, based on specific endowments and needs of each area has been stressed from the beginning of the planned development. However, despite several reports and studies, only sporadic efforts were made in this direction resulting in suboptimal usage of resources and limited outcomes.

7.2 Constitutional Provision

The 73rd and 74th Constitutional Amendments (Articles 243G, 243W) envisage planning for economic development and social justice by Panchayati Raj Institutions (PRIs) and Urban Local Bodies (ULBs), respectively; and, their consolidation (Article 243ZD) into District Development Plans by the District Planning Committees (DPCs), after consideration of matters of common interest between the Panchayats and the Municipalities including:

- spatial planning
- sharing of water and other physical & natural resources
- the integrated development of infrastructure
- environmental conservation
- the extent & type of resources available whether financial or otherwise.

7.3 11th Plan & Decentralized Planning

The Eleventh Plan further envisages participatory district planning process as an integral part of the preparation of State Five Year Plans and Annual Plans. Such holistic planning will result in convergence of schemes, synergistic implementation and better outcomes.

7.4 2nd ARC & Decentralized Planning

While emphasizing the importance of decentralized and participative planning, the 2nd ARC, in its 6th Report on Local Governance has recommended:

- i. development authorities to become the technical/planning arms of the DPCs,
- ii. strict compliance of the guidelines dated 25.8.2006 issued by the Planning Commission in preparation of the district plan,
- iii. developing methodology of participatory local level planning,
- iv. integration of district plans with the State Plans,
- v. clear demarcation of planning functions among the local governments and planning committees.

7.5 National Conference on Decentralized Planning

The National Conference of Chairpersons/CEOs of the DPCs held at New Delhi on 16th - 17th January, 2009 also deliberated upon the issues of constitution and functioning of DPCs, preparation of five year District perspective plans and annual plans, ICT support for district planning (including Plan Plus), database for District and sub-District levels, financial domain of Panchayats, Spatial planning, consolidation of Urban & Rural Plans, capacity building for District Planning, etc.

7.6 Manual for Integrated District Planning

The first volume of the Manual contains an exposition of the essential principles of participative district planning and sets out the steps to be taken at the state and national levels. The second volume is a Handbook for District Planning that lays down the modalities and sequence of processes for preparation of a participative district plan. It includes the formats and checklists by which the processes can be documented and data provided for different planning units.

7.7 Participative integrated District Planning

7.7.1 Participative integrated planning is multi-dimensional, including:

- i. three levels of Panchayats and Municipalities
- ii. multiplicity of sectors (viz. health, education, nutrition, sanitation, livelihoods)
- iii. a variety of funding sources (viz. State/Centrally Sponsored Schemes, Finance Commission, own resources)
- iv. an intertwined group of departmental and programmatic machinery
- v. a broad spectrum of stakeholders; each seeking fulfillment of its own from a plan.

With increased specialisation and sectoral thrusts in development, there has been a tendency for more & more sectoral plans prepared in relative isolation, for example, District Health Plan, District Watershed Plan, District Education Plan and so on. It is important that this vertical planning process is transformed into a horizontal planning process, where local governments and other planning entities work together to develop a holistic plan, out of which sectoral plans emerge. Achieving this coordination in the face of an increasing number of schemes and fund-flows into the districts will necessitate a quantum improvement in the existing planning & implementation mechanism through local governments and DPCs.

7.8 Role of BRGF / MGNREGA in catalyzing Decentralized Planning

In spite of various initiatives on decentralized, participative and integrated planning, the MGNREGS and BRGF remain the two main schemes for planning from below. BRGF attempts to bridge critical gaps in the infrastructure by empowering the local bodies and through appropriate capacity building to facilitate participatory planning and decision making.

MGNREGS has now emerged as the largest CSS. Under Section 16 and 17 of the MGNREGA, 2005 the Gram Panchayat and the Gram Sabha have been given key roles in planning, implementation and monitoring of MGNREGA. BRGF and MGNREGA funds today contribute the major outlay at village level from where village planning can start.

7.9 District Planning Committees (DPCs)

7.9.1 Role: In order to take the process of participative district planning forward, the foremost necessity is to set up DPCs on the lines of Article 243 ZD and assign to them, at least, the following roles:

- i. Providing overall leadership to the planning process without taking away from the functional responsibilities of the local governments
- ii. Leading the district envisioning exercise
- iii. Setting district priorities on the basis of consensus among local-governments, line departments, civil society, academia and other stakeholders in development
- iv. Performing the central role in the preparation of the Potential Linked Credit Plan (PLCP) for the district with the support of NABARD
- v. Reviewing plans of local governments and development departments during the process of consolidation; particularly with a view to ensuring that these address the district vision as a whole and are free of overlap and duplication
- vi. Overseeing the participative planning process to ensure that the processes & timelines are followed
- vii. Monitoring implementation of the approved district plan and addressing bottlenecks that may arise.

7.9.2 Support to DPCs: To enable the DPC to perform this role, a District Planning Unit (DPU) should be constituted by merging the district offices for Planning, Economics and Statistics and Town & Country Planning. The district unit of the National Informatics Centre (NIC) and the National Resources Data Management Centre set up in some districts should also be made a part of the DPU. Besides, experts in the requisite areas (like: planning, programme management, resource management, livelihood) could be hired to support the work of planning and implementation. In fact, the BRGF guidelines provide for such technical & professional support and the States are advised to use this option. Moreover, Planning Commission is coming up with a scheme to support the

planning process including at the district level through provision of manpower, infrastructure etc.

The DPC must also have a building to house the DPC & DPU Secretariat. The Secretary of the DPC should be a sufficiently experienced person who works on a full-time basis. Even contractual appointments with pay-packages commensurate with the responsibility of leading the preparation and implementation of the district plan, for a period of say five years, could be considered. Besides, the DPC must have adequate budgetary resources to meet expenditure on its regular staff, hire experts, outsource work, facilitate workshops and meet the expenditure on capacity building of elected representatives and staff of line departments.

7.10 District Vision and Perspective Plans

7.10.1 District Vision: The District should prepare a vision for development over 10 to 15 years, and a perspective plan of 5 years, not constrained or conditioned by the existing schemes and programmes. In fact, a well-prepared perspective plan becomes an important guide in deciding the expenditure priorities of a district over the long-term.

For urban areas, the perspective plan indicating goals, policies and strategies regarding spatial and socio-economic development should be prepared by the ULBs. 5-year perspective plans and annual plans can be prepared for different sectors by the related departments/planning units which can then be consolidated into a holistic district plan. In the whole process, the rural-urban continuum, social, economic & spatial, needs to be kept in full view.

7.10.2 Data bases: The District vision & plan must have a strong empirical grounding provided through rigorous compilation and analysis of data including the baseline which needs to be institutionalised as a part of the planning system. Ministry of Statistics & Programme Implementation is implementing a scheme for generating micro-level database for PRIs in particular. GIS based district mapping can be a very valuable input. Such database and GIS facility would be necessary both for preparation of Plans and monitoring outcomes.

7.10.3 ICT: ICT solutions make it much easier to capture, integrate and analyse data and much more meaningful data display (including GIS) to decision-makers at all levels. ICT will enable better recording of budget envelopes, prioritizing selected projects and works, linking these to budgets, generating/modifying/finalising plans, projectisation and monitoring of implementation. Most important, ICT can throw open the entire planning process to public view and bring life to the ideal of decentralised planning. The PlanPlus software would be of great help in the process and is strongly recommended.

7.10.4 Geographic Information System for Decentralized Planning

The National Remote Sensing Centre, Hyderabad, has undertaken a Space Based Information Support for Decentralized Planning (SIS-DP) project. Satellite remote

sensing, GPS, IT and GIS technologies have the capability for preparation and integrating the data from various sources (both spatial and non-spatial). The SIS – DP project has the following objectives:

- Spatial Geo Data Base – Creating land cover, water resource, infrastructure details, slope and linking of stakeholder dept. data for entire country on 1:10,000 scale. For selected areas soil and ground water prospect details will also be prepared
- Existing Resource Information – ISRO/DOS created existing thematic information on 1:50,000 scale will be made available under the project
- Village cadastral data – Digital village cadastral data along with attribute information (ownership, health care, education, marketing, commercial facility etc.) will be created to overlay on various layers
- Decision Making Tool and Dissemination – Customized solution for development of tools and utilities will be developed and deployed up to gram panchayat level
- Capacity Building – Pool of manpower and capacity building of State and national level along with training of manpower to maintain data base for decentralized planning.

7.11 Action Points:

The transition to coordinated decentralized planning cannot be merely mandated. Change management through rigorous & periodic training will be necessary, particularly with a view to achieving effective transformations in attitudes, perspectives and systems of governance. Following action points are suggested:

- (a) Constitute professional DPUs to provide technical support to DPCs.
- (b) Implement guidelines dt. 25.08.06 of Planning Commission
- (c) Communicate resourceto the planning units.
- (d) Train all stakeholders
- (e) Operationalize PlanPlus software
- (f) Build database.

Chapter - Eight E-PANCHAYAT

8.1 Objective of e-Panchayat

MoPR has formulated scheme for ICT enablement of all the Panchayats in the country following a Mission Mode approach. The e-Panchayat Mission Mode Project (MMP) is intended to provide a whole range of IT related services to citizens, all Central Line Ministries and State Government departments, such as Decentralized Database & Planning, Budgeting & Accounting, Implementation & monitoring of Central and State sector schemes, Unique codes to Panchayats and Individuals, essential GIS based applications, on-line self-learning medium for elected representatives and official functionaries etc. Panchayats being the basic unit for planning and implementation of a large number of schemes and services, this MMP would also , go a long way in improving public service delivery and help build ICT culture at grassroots level.

e-Panchayat would also serve its internal needs, such as

- (a) Enabling Panchayats to better deliver its mandated services to the citizens through IT.
- (b) Enabling PRIs to use IT as a tool for transparency disclosure of services to Citizens and Social Audit.
- (c) Improving internal management processes and decision-making in Panchayats.
- (d) Enabling use of IT for electronic tagging and tracking of funds at the end point.

8.2 ISNA, BPR & DPR for each State/UT

MoPR has carried out detailed study on Information and Service Needs Assessment (ISNA) and Business Process Re-engineering (BPR) for 31 States and UTs. Detailed Project Reports (DPRs) have also been prepared for each of these States/ UTs. The DPRs give the roll out model, total project cost and operational strategies.

8.3 Panchayat Enterprise Suit and Application Softwares:

On the basis of these reports, 12 Core Software Applications have been identified and taken up for development, centrally. These software applications would be applied uniformly across the country and would be useful for the PRIs at all the three tiers. These are:

- (i) National Panchayat Directory-Unique Code to Panchayats
- (ii) Panchayat Accounting
- (iii) Panchayat Services- Citizen Centric Services
- (iv) Social Audit
- (v) National Panchayat Portal
- (vi) Planning & Budgeting by Panchayats
- (vii) Implementation & Monitoring of Schemes
- (viii) Panchayat Profiler
- (ix) Grievance Redressal

- (x) Panchayat assets Directory
- (xi) Panchayat skill Management
- (xii) GIS mapping

8.4 PRIASOFT

.....

.....

8.5 PlanPlus Software

PlanPlus is a software developed to demystify and strengthen the decentralized planning process. The software is a web-based software and captures the entire planning workflow starting from identification of needs, the plan approved process till the approval by the DPC. The software is generic and can be extended to capture the plans prepared by line department at the state and central level to generate the National Plan. The software:

- Facilitates decentralized planning process in local language.
- Captures the planning workflow.
- Converges the flow of funds from different sources.
- Converges the rural and urban plans to generate an integrated district plan.
- Brings about total transparency in the plan approval process.
- Provides role based authentication and authorization.
- Acts as a decision support tool through the use of supporting GIS and graphs.

Detailed information on PlanPlus is available on www.planningonline.gov.in.

8.6 e-Panchayat & CSCs

.....

8.7 Training e-Panchayat:

.....

8.8 Action Points:

- (a) Provide Computer & connectivity to each GP
- (b) Roll out e-Panchayat
- (c) Develop & deploy all application of PES 2011
- (d) Develop State-specific Application Software
- (e) Do BPR for the services/programmes indentified in BPR Report.

PANCHAYAT (EXTENSION TO SCHEDULED AREAS) Act

9.1 PESA for people-centric governance

i. Provisions under Schedule V of the Constitution

The Schedule V Areas of the 9 States (AP, Chhattisgarh, Gujarat, Jharkhand, MP, Maharashtra, Orissa, Rajasthan, Himachal) are characterized by poverty, illiteracy, weak infrastructure and deprivation in general. Given the vulnerability of the people, Schedule V of the Constitution makes special provisions such as:

- a) Report by Governor to the President regarding the administration of these Areas
- b) Tribes Advisory Council to advise Governor on matters pertaining to the welfare and advancement of the STs
- c) Direction by Governor through public notification that any particular Act of parliament or of the State Legislature shall or shall not apply to a Scheduled Area or any part thereof
- d) Governor to make regulations for the peace and good government
- e) Union Government to give direction to the State as to the administration of these Areas.

9.2 Need for PESA inspite of Sch. V:

Despite these special provisions, the pressure on natural resources in these areas continued due to the large projects being set up therein and unscrupulous elements indulging in illegal mining & forest felling. Land alienation and exploitation have also continued. This led to dislocation of the communities and loss of major sources of livelihood; and also increased vulnerability and disenchantment with governance.

It was critical that customs, rights and livelihoods of these people are protected through their empowerment. Accordingly, PESA was enacted in 1996 which entrusted part IX of the Constitution to Sch. V Areas, and provided for people-centric governance and peoples control over community reserves and their life, with a central role to the Gram Sabha. Being able to provide people-centered development and also for enhancing people's control over common-pool resources.

9.3 Powers of the Gram Sabha

The Gram Sabhas under PESA are deemed to be 'competent' to safeguard and preserve the traditions of their people, community resources and customary mode of dispute resolution.

The Gram Sabhas further have:

1. mandatory executive functions to approve plans of the Village Panchayats, identify beneficiaries for schemes, issue certificates of utilization of funds
2. right to mandatory consultation in matters of land acquisition, resettlement and rehabilitation, and prospecting licenses/mining leases for minor minerals
3. power to prevent alienation of land and restore alienated land
4. power to regulate and restrict sale/consumption of liquor
5. power to manage village markets, control money lending to STs
6. ownership of minor forest produce
7. power to control institutions and functionaries in all social sectors
8. power to control local plans and resources for such plans including TSP, etc.

9.4 Role of PESA in containing extremism

It was expected that PESA would lead to self-governance and empowerment of the people. However, implementation of the Act has not been satisfactory. The rights, livelihood and habitat of the people in these areas have continued to be under stress, leading to disaffection with the system. A status note is at Annex

Generally PESA areas and those in their vicinity suffer from extremism. Effective implementation of PESA is the answer to various causes of discontent leading to extremism in the tribal areas. Not surprisingly, various Expert Committees have recommended implementation of PESA in letter & spirit. There is, evidently, urgency in the implementation of PESA, given the deepening and widening of extremism in these areas & vicinity.

9.5 Effective Functioning of Gram Sabhas

- Empower the Gram Sabha as above and ensure its effective functioning.
- Undertake special programmes to acquaint the Gram Sabhas of their rights and duties.
- Develop appropriate training and informative material in the regional language.
- Identify, train and deploy a social mobilizer in each Gram Sabha for activating the Gram Sabha.
- Conduct regular training programmes on PESA for State and Panchayat functionaries (both elected and officials) to sensitize and educate them on PESA with focus on the role and conducting of the Gram Sabha.

9.6 Action Points:

9.6.1 Key Interventions by the States

(i) Acts and Rules (broad framework is given in Annex ...)

- Adopt Model PESA rules with appropriate modifications
- Amend PR Act for consonance with PESA
- Amend subject laws, rules and executive instructions.

(ii) Gram Sabha

- Empower GS and ensure effective functioning (MoPR guidelines dt. 2.10.09)
- Provide administrative support to GS for exercising its functions

- Regular training of government and Panchayat functionaries.

(iii) Administrative Measures

- Constitute committee of relevant departments and experts at state and district levels to periodically review the progress
- Activate TACs and TRIs
- Include prominent section on implementation of PESA in Annual Governor's report
- Strengthen administrative machinery by filling-up vacancies, creation of Panchayat cadres, hardship allowance, etc.
- Create information-cum-grievance redressal mechanisms.

(iv) Subject Related

- Delimitation of villages through SEC on the application of communities
- Nominate under-represented tribal groups (PTGs etc.).
- Effective role of the Gram Sabha in restoring alienated land; decision to be executed by SDM
- Land Aquisition: complete information before GS; recommendation to be reversed only by the State government with reasons.
- Better prices to the gatherers for MFP
- Enable GS, especially women, to take decisions regarding liquor vending
- Rights regarding Minor Minerals to GS/ GP; Royalty to return to PRIs; Rules for environmental conservation
- Capacity building of GPs and GSs to check unfair trade-practices in local markets and money-lending.

9.6.2 Key Interventions by the Centre

- Planning Commission and Ministries with flagship CSSs: funds under CSSs and LWE/IAP packages to comply with PESA
- MoTA: Rationalization of Schedule V areas; Link funds under 275(1) to PESA compliance; Funds for administrative support to GS; Support value addition to MFP by locals
- D/o Land Resources: Amend LA and R&R acts
- Ministry of Mines: Amend M&M Act; Protect Habitat: deep mining as against wide mining, mine-closure plans, etc.
- MoEF: Amend Forest Act; MFP issues, JFMC under GS
- D/o Financial Services: Credit options in Schedule Areas
- MoPR: Amend PESA to remove infirmities (Annex III); Assist States in formation of rule/guidelines etc.; Capacity building, etc.
- Special report on PESA from the Governor.

Chapter Ten

DECENTRALIZED GOVERNANCE IN THE NORTH EASTERN STATES

10.1 Sixth Schedule

The ideal constitutional frame for Sixth Schedule has remained rather ineffective. As noted in North-Eastern Hill University (NEHU) study (2008), most of the District Councils could not even constitute village bodies; and, where constituted, they remained ineffective except in mixed areas like Tripura.

The Councils have been formally assigned developmental functions as well. They are, nonetheless, quite diverse; for example, from the bare minimum functions for Councils in Meghalaya to extensive functions in Bodoland. However, their functioning is not as per the expectations for various reasons.

Further, formal Courts have little work to do in the face of effective traditional system which continues to be the main system for dispute resolution.

10.2 2nd ARC and Expert Committee on NE States

10.2.1 2nd ARC

The 2nd ARC in its Seventh Report (February, 2008) entitled ‘Capacity Building for Conflict Resolution’ has specially dealt with ‘Conflicts in the North East’ (NE). Besides dealing with the general theme of capacity building in administration, the 2nd ARC has focused especially on three aspects of local government institutions, namely:

- (i) Autonomous District Councils (or Councils) in the Sixth Schedule areas
- (ii) Village level self Governance therein
- (iii) Tribe specific Councils in Assam.

10.2.2 The Expert Committee: MoPR had appointed an Expert Committee chaired by Shri V. Ramachandran (a 2nd ARC member) in 2006 for examining in detail functioning of the self-governing institutions under the Sixth Schedule. The Committee submitted its Report in September, 2007. The major policy issues of self-governance dealt by the Committee are naturally subsumed in the ARC recommendations.

10.2.3 ARC and the Expert Committee (discussed below) consider PESA to be a “landmark legislation” whose experience can provide guidance on dealing with vexed issue of traditional-formal interface, etc. in NE States.

10.2.4 The Broader North Eastern Perspective:

These recommendations have to be considered in the larger context of self-governance in NER. For example, there is compelling need to balance security, tribal identity and institutions, economic development and natural resource management. Various attempts

for achieving needed balance became infructuous because of the complex structures, overlapping jurisdictions, ad hoc decisions and non-implementation of agreements.

10.3 Framework for dealing with decentralization in NE States

10.3.1 Realigning relevant Constitutional Provisions

(a) Governance at the Village-level in NE

The traditional self governing village institutions are strong throughout NER, especially in tribal territories. But formal institutions such as Village Council or Gram Sabha (under various State laws including the Sixth Schedule) are rather weak.

Accordingly, the traditional-formal impasse continues. This issue has been resolved under PESA in the Scheduled Areas. In NER, Nagaland has taken some ingenious measures in Village Council Act, 1978. But there are some inherent anomalies therein like the Village Development Board (analogous to the Gram Sabha) being answerable to traditional Village Council (which is not a elected body) and an official functioning as its chairman. They have to be remedied in keeping with the spirit of rising democratic aspirations.

This traditional versus formal impasse is equally pervasive in Council Areas and other tribal territories in NER. The ‘core’ elements of PESA frame can be adopted as a model for resolving the prevailing anomalous situation in NER. Accordingly, the Sixth Schedule may be suitably amended to empower Gram Sabhas in Council Areas as in PESA. The provision empowering Gram Sabha in the Sixth Schedule should be extended also to the non-Council Areas in all the NE States by amending Article 243A concerning Gram Sabha.

Other issues such as the powers of Panchayats throughout NER would be taken care of in the amendments to Part IX of the Constitution for the country as a whole (Chap 11).

(b) Urban Bodies in the Tribal Areas

‘Local Government’ in general areas comprises of two parts:

- Panchayats in Part IX and
- Municipalities in Part IX A.

But the jurisdiction of Councils in the Sixth Schedule is unified. This unified Council frame should continue. In fact, as envisaged in PESA and recommended by ARC in its Report on LSG, the Sixth Schedule Council pattern could be followed in the whole country.

The biggest challenge that people face in urbanization is from (i) initial adverse forces in the ‘transitional areas;’ and (ii) the ‘backwash effect’ around industrial or mining ventures. A provision should be made to identify both these special categories of urbanizing areas in the Sixth Schedule and effective protection of tribal interest including

reservations for Scheduled Tribes of not less than 50% seats and the position of Chairperson in all urban bodies.

(c) District Council and District-level Planning

Article 243ZD in Part IX A of the Constitution envisages constitution of a District Panning Committee (DPC) at the district level. However Part IX A at the moment does not apply to the Scheduled and Tribal Areas. Therefore, Article 243ZD concerning DPCs is not applicable in these areas.

Accordingly, a provision should be made in the Sixth Schedule to the effect that District Council itself (or sub Committee thereof) should also be the DPC where the Council covers a whole district. In case, the Council covers more than one district, the DPCs of districts concerned should be mandated to function under the guidance of the Council.

(d) District Council and the Administration of Justice

Administration of justice in the Tribal Areas of NER is a Constitutional responsibility of the Council with power to constitute 'village councils or courts'. The powerful traditional Village Councils, however, have rendered the formal systems ineffective. Streamlined administration of justice after amendment in the Sixth Schedule should be an integral part of the new structure. It may comprise elements of both the traditional and formal. The Nyaya Panchayat Bill formulated by MoPR, with suitable exceptions and modifications could be adopted for Tribal Areas.

The Councils concerned may compile customary laws as a guide for the village communities.

(e) Raising the level of Administration in Tribal and Scheduled Areas

Article 275 (1) underwrites the cost of raising the level of administration of Scheduled Areas and Tribal Areas to that of the rest of the State concerned by the Union Government. NER has a special problem with regard to Assam as the reference State because of the changing status of different areas within the erstwhile Assam.

The omissions in this regard should be made good by (i) a provision for raising the level of administration of the entire Tribal Area in NER to the general level in NER, and (ii) preparing a perspective plan for raising the level of administration in all Tribal Areas to that of the rest of the country within a period of ten years or so, taking advantage of other area schemes as well.

Separate annual plans for raising the level of administration should be prepared by the States concerned under the guidelines of MoTA along with the developmental plans.

(f) District Councils and State Finance Commissions (SFCs)

Some States that are outside the purview of Part IX have not established SFCs. While it is not necessary to have full-fledged SFCs in all the States of NER, the Governor may be

empowered to set up a high level State Finance Committee with terms of reference as in Art. 243I for:

- reviewing the financial position of Panchayats
- recommending devolution of funds thereto from the State.

(g) District Council, State Government and the Governor

Governor is the final authority on administration of Tribal Areas in the Sixth Schedule. He is answerable to the President. But there is no provision for Governor's Report as in the Fifth Schedule. The Sixth Schedule has a provision for appointment of Commissions by Governors to report about the administration in Tribal Areas. ARC has recommended the amendment of this Schedule to enable the Union to appoint a common Commission for all NER Tribal Areas. Instead of making a provision in the Sixth Schedule, Article 339(1) should be amended to include 'Tribal Areas' in its terms of reference.

The Governor in the new frame will have a central role to play. The Union Government must remain well informed about the state of administration and ensure concurrent corrective measures. A provision should therefore, be made in the Sixth Schedule for Governor's annual Report to the President.

10.3.2 Administrative Reform Measures

(a) Reduced hierarchy and simpler systems

The new opportunity of strengthening self-governing institutions in NER should be used for basic administrative reforms. The uniqueness of small-sized States should be harnessed in terms of simpler systems with drastically reduced hierarchy engendering greater opportunities for face-to-face interaction between the people and the administration

(b) General Administration

The Ramachandran Committee has made some state wise recommendations regarding finance, accounts and audit. The implementation of these recommendations should be incorporated in the Governor's annual reports on the Administration in Tribal Areas.

10.3.3 Institutional Improvements: Roles of and Interrelationships among the Seven Major Institutions

Institutional improvements are critical to effective and efficient governance in the states of NER. Resolution of issues between the state governments and councils (district or regional or tribe-specific) constitute one fundamental institutional improvement that is required. The other concerns the seven major institutions in the area.

Seven major institutions – MoTA, DoNER, NEC, ISC, NCST, MoPR and NEHU – are responsible for various administrative and developmental tasks. They must work in unison especially when the basic structural change in administration in the form of an effective self-governing system is being developed in NER.

In order to meet the current challenges and to achieve national goals, a clear articulation is required of the roles of MoPR, MoTA, DoNER, NEC, ISC, NCST and NEHU in NER as well as of the organic inter-relations amongst them.

(a) State-Council Relations

2nd ARC has underlined the need for further dialogue amongst the Councils, State governments and the Union about the strained State-Council relations.

An important issue is whether Governor should act on the advice of Council of Ministers in the Council matters.

The other issues include:

- enlarging the legislative domain
- further delegation of powers to the Councils in Mizoram
- demand for establishing Councils in Arunachal Pradesh
- Tribal Area status for hill areas in Manipur
- establishment of tribe specific Councils in Assam
- direct Central assistance to the Councils.

Three councils covering whole of Meghalaya is not a very comfortable situation. However, it may not be feasible to abolish these Councils.

GOI has not accepted the proposals for establishment of Councils in Arunachal Pradesh and tribe-specific Councils in Assam since Councils have not led to effective basic changes in local governance in NE States and have, instead, created tension with the State Governments.

Council Status for hill areas of Manipur may not be desirable politically since their area covers 9/10th of the geographical area of the State. The purpose of self-governance could be served by empowering Gram Sabha and Panchayats.

Direct transfer of Funds to Councils may not be desirable, given the federal structure of the Country.

(b) DoNER

DoNER should broaden its dialogue with the Central establishment.

(c) NEC and ISC

The NEC is a prestigious body with all NER Governors and Chief Ministers as its members. Inter-State disputes, therefore, should get resolved in NEC parleys. The need for ISC intervention, if at all, will be rare. The very presence of ISC, however, should serve as a distant monitor.

The NEC with direct link with DPCs below and Planning Commission above should function as the Chief Advisor of DoENR as also its representative in NER. NEC should

function as the Planning Commission for the NER. NEC should also promote and where necessary establish Regional Training Institutes of excellence in various disciplines.

(d) MoTA and MoPR

The key to development with equity, peace and harmony lies in the effective self-governance. The role of MoPR along with MoTA in this situation is central. It should be responsible for providing institutional support for promoting simple governance and legal frame, its dissemination, effective administration, concurrent monitoring coupled with effective incentives and disincentives.

The scope of direct involvement of MoTA in the affairs of Tribal Areas in the Sixth Schedule has been limited in the context of limited Central role therein. In the new frame, especially with the introduction of Governor's annual reports to the President, this would change.

The Scheduled Tribes and other Traditional Forest Dwellers (Recognition of Rights) Act, 2006 (FRA) is a landmark law about tribal rights in forests. This Act, however, does not extend to the Tribal Areas in the Sixth Schedule, except in small stretches of Reserved Forests therein, if any. This law also has far reaching implications for extensive Non-Council Areas in NER. There are some crucial matters like shifting cultivation, operationalisation of ownership of Minor Forest Produce and powers of Gram Sabha to protect forests that have not been duly considered so far. An inter-ministerial Committee led by MoTA comprising representatives of DoNER, MoEF, MoPR and noted experts should be set up to study the situation in NER, especially the above mentioned.

(e) NCST

The presence of NCST in NER is rather weak. Its focus should shift from individual complaints to the issues of Constitutional mandate. NCST should have a well-equipped field unit for NER at Shillong.

(f) North-Eastern Hill University (NEHU)

NEHU should develop as a Center of advanced study in various faculties. All Central Universities in NER must work in unison. A Council of North-Eastern Universities (CoNEU) should be established for this purpose. NEHU should serve as the Convener of CoNEU.

10.4 Action Points

10.4.1 Amendment to the Sixth Schedule

Amendments to the Sixth Schedule and to relevant Articles of the Constitution, besides adaptation of State Panchayat laws, for reinforcing self-governance in NE States:

10.4.2 Council Areas

(a) Councils in areas other than Mizoram:

- Take-out traditional Village Council from legislative jurisdiction of District Council, the main reason for continuing impasse in Tribal Areas
- Adopt PESA templates concerning Gram Sabha in the tribal areas under the Sixth Schedule.

(b) Councils in Mizoram:

- Enlarge the legislative domain of all the three Councils in Mizoram as in Para 3A of the Sixth Schedule.

10.4.3 Non-Council Areas in NER

- (i) **Empowering Gram Sabhas in Non-Council Areas in all NE States:** Add a Provision in Article 243A to the effect that the rights, duties and powers of Gram Sabha as envisaged in the Sixth schedule for the Council Areas shall be endowed on the Gram Sabhas in all NE States .
- (ii) **Hill Districts of Manipur:** Amending sub-clause (2) of Clause 4 of Article 243M authorizing Parliament to extend the provisions of Part IX to the hill districts.

10.4.4 Other Aspects of Governance

- (i) **Urban Bodies:** Reinforcing the unified (rural & urban) District Council frame of the Sixth Schedule with amendments to ensure
- equitable sharing of benefits of development
 - effective protection of tribal interests especially in the ‘transitional areas’ and in ‘Zones of Urban Influence’
 - reservation of not less than 50% seats and all positions of Chairpersons in urban bodies in Tribal Areas for STs.
- (ii) **District Planning Committees:** Designate the District Council as the District Planning Committee where single District Councils exist; and, otherwise, mandate DPCs in multi-District Councils to function under its guidance.
- (iii) **Administration of Justice:** Additional provisions in the Sixth Schedule and adoption of the Nyaya Panchayat Bill with suitable **modifications**.
- (iv) **Raising the level of Administration:** Amend Article 275(1) for renewed commitment for
- raising the level of administration in all Tribal Areas to the level of entire NER
 - widening the perspective of raising the level of administration of all Tribal Areas in the country to the national level within a decade or so.
- (v) **State Finance Commissions:** Empower the Governor of those States that have not constituted State Finance Commissions to set up State Finance Committees, instead, with terms of reference as in Article 243I.
- (vi) **Enquiry about Administration:** Amend Article 339(1) to add ‘Tribal Areas’ therein enlarging the jurisdiction of the Commission appointed by the President

periodically under this Article to report about the administration of the Scheduled Areas.

(vii) **Governor's Report to President:** Extend executive power of the Union to Tribal Areas in the Sixth Schedule and establish an effective link through Governor's annual Report to the President on their administration, as in the Fifth Schedule.

(viii) **Constitute a high powered Committee comprising representatives of MHA, MoPR, MOTA, MoE&F and DoNER besides prominent public men for**

- **State and Council Relations:** dialogue about the relationship between the Councils and State Governments about the issues that remain unresolved.
- **Tribe Specific Councils:** dialogue with concerned Governments and Councils regarding the need of tribe specific Councils and their role in the context of proposed empowerment of self-governing village institutions.
- **Forest Rights:** examining implications of non-application of Forest Rights Act to non-reserved forests in Sixth Schedule Tribal Areas and lack of a clear position about jhoom, ownership of MFP especially bamboo and powers of Gram Sabha to protect forest.

(ix) **Reinforcing Administration**

- **Administrative Reforms:** administrative reforms in the NER aimed at a simpler system with reduced hierarchy in smaller States and of direct interface between the people and the administration.
- **Finance, Accounts and Audit:** Forwarding State wise recommendations of Ramachandran Committee regarding finance, accounts and audit for necessary action and report.

(x) **Institutional Improvements:** Clear articulation of the role of MoPR, MoTA, DoNER, NEC, ISC, NCST and NEHU in NER and organic inter-relations amongst them for meeting the current challenges and achieving the national goals.

Chapter Eleven

LEGAL FRAMEWORK

11.1 Model Panchayati Raj Act

MoPR is responsible for ensuring implementation of 73rd Amendment in letter and spirit. It has formulated a draft Model Panchayat and Gram Swaraj Act which:

- a) spells out the rights and duties of the Panchayats vis a vis citizens and vice versa
- b) incorporates devolution of 3Fs
- c) ensures accountability of Panchayats through the central role of Gram Sabha and through clear provisions on Accounts & Audit including Social Audit, Ombudsman etc.
- d) proposes Nyaya Panchayats as a mechanism for dispute resolution through mediation, conciliation and compromise.
- e) provides model frame for State Election Commission and State Finance Commission,
- f) elaborates various aspects of Panchayat Finances, Planning, Budgeting, etc..

The Panchayats have also been endowed with regulatory functions like rural policing, issuing of birth/ death /caste /residence certificates, etc.

It is expected that the Model Act would provide a reference for the existing and future Panchayat laws besides bridging the gaps and removing inconsistencies which exist in many of the enactments.

11.2 Amendment to Article 243 of the Constitution

11.2.1 It may be recalled that Mahatma Gandhi had dreamt of Gram Swaraj. Article 40 in the Directive Principles of State Policy states that ‘the State **shall** take steps to organize village Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government.’

11.2.2 Moreover, the then PM, while introducing the 64th Constitution Amendment Bill in May 1989, had concluded his speech as follows “To the people of India, let us ensure maximum democracy and maximum devolution. Let there be an end to the power-brokers. Let us give power to the people”.

11.2.3 The Statement of Objects and Reasons of the Constitution (Seventy-third Amendment) Act, 1992 states that ‘In the light of the experience in the last forty years and in view of the shortcomings which have been observed, it is considered that there is an imperative need to enshrine in the Constitution certain basic and essential features of Panchayati Raj Institutions to impart certainty, continuity and strengthen them’.

11.2.4 As the country has commemorated 50 years of three tier Panchayats on 2nd October, 2009, it would be most appropriate to have a relook at the relevant provisions of the Constitution and carry out amendments required to realise true Gram Swaraj.

11.3 Constitutional Amendments required

11.3.1 Amendment to Article 243 G and 243 W of the Constitution Consequent upon the 73rd Amendment in 1992, Article 243G of the Constitution provides that the Legislature of a State **may**, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government with respect to the preparation and implementation of plans for economic development and social justice including for matters listed in the Eleventh Schedule. Article 243W has provisions similar to Article 243G with respect to Municipalities regarding matters listed in the Twelfth Schedule.

11.3.2 The change in word from ‘**shall**’ (Article 40) to ‘**may**’ (Article 243G), gives discretion to the States in devolving powers and authority to the Local Bodies. As a result, the actual devolution to the Local Bodies has been uneven across States and CSCs, and far from satisfactory in most of the States. Thus the intent of the 73rd Amendment remains largely unrealized. It may be noted that the Constitutional provisions relating to the structure of local governments are mandatory in nature, and consequently, regular elections with the mandated reservations, constitution of State Finance Commission etc. have now become the norm. Correspondingly, devolution of powers and functions upon the Local Bodies that can be performed at the local level, also needs to be made mandatory.

11.3.3 Since matters listed in the Eleventh and Twelfth Schedules are also State subjects, for genuine devolution in the present Constitutional framework, the Ministry of Panchayati Raj (MoPR) has supported the States in carrying out ‘activity mapping’, i.e. delineating clearly the functions to be performed at different levels (Central/State Govts., 3 tiers of Panchayats, ULBs etc.), following the principle of subsidiarity (i.e. devolving functions to the lowest possible level where it can be performed), to be followed by appropriate devolutions of funds and functionaries. But, this has not led to the desired outcome. Either the activity mapping has not been done, or has not been followed with government orders, or the principle of subsidiarity has not been followed, or funds and functionaries have not been devolved.

11.3.4 It is, therefore, desirable to make devolution of power and authority to Local Bodies mandatory with a suitable formulation.

11.4 Setting up of District Councils

11.4.1 The rural and urban areas represent a political, social, economic and geographical continuum. However, in the present system, there is an artificial divide between rural and urban local governments, which has several shortcomings. First, the planning and management of socio-economic development including basic public services are artificially segmented. Second, in a rapidly urbanizing society, the boundaries between rural and urban territories keep shifting. The peri-urban areas around cities have dual characteristics of both the village and the town. Finally, as a democratic body

representing the whole district does not exist and the District Collector continues to be the symbol of authority in the district, democratic decentralization is undermined. In all, the artificial separation of rural and urban local governments leads to fragmented planning and implementation, sub-optimal utilization of resources (manpower and financial) and vital gaps.

11.4.2 Though Article 243 ZD provides for the creation of District Planning Committees (DPCs) to consolidate plans prepared by the Panchayats and the Municipalities, the effectiveness of the DPC is very limited, because it does not have the necessary power and control over sectoral formations. To promote democratic governance and holistic planning and implementation for addressing people's needs, an empowered institution, i.e. a unified elected District Council for the entire district (in place of the District Panchayat), with representation from all rural and urban areas, is needed.

11.4.3 The District Council will be responsible for planning for the whole district, as well as for all the local functions, including those listed in the Eleventh and Twelfth Schedules. Suitable regulatory functions could also be devolved to District Councils as these should be empowered bodies capable of taking decisions on a wide range of issues. The DPC comprising of officials and experts will become a professional / technical arm of the District Council, providing overall support to the planning process; setting of district priorities on the basis of consensus among stakeholders; review of plans of local bodies, overseeing participative planning; monitoring and implementation of district plans.

11.4.4 The District Council will have its own Chief Executive Officer (CEO) of sufficient seniority to facilitate coordination of all the development departments of the district. The Collector may function as the CEO of the District Council, so that the strength of the Collector's institution is utilized to empower the District Council. The Collector would be accountable to the elected District Councils on all local matters and to the State Government on regulatory matters, not delegated to the District Councils.

11.4.5 Such an arrangement already exists in the Sixth Schedule areas in the North East, as the Autonomous Districts Councils enjoy legislative, judicial and executive powers without segmentation into the rural and urban areas. Such Councils were created to enable the local people to fulfill their aspirations and to promote their interests, a goal that is applicable across the country. Section 4(o) of the Panchayat (Extension to Scheduled Areas) Act 1996, (PESA), applicable in the Fifth Schedule areas, also recommends such provisions at the district level.

11.4.6 It is, therefore, desirable that the Constitution be amended to create elected District Councils substituting the District Panchayats, which will have representation from both rural and urban areas (excluding metropolitan areas) in proportion to their population.

11.5 Making the Panchayats accountable to the Gram Sabha

11.5.1 People's participation and accountability of the local public institutions to the people are two critical elements for the improved governance. These would evidently be facilitated by strengthening of the Local Bodies as a whole and of the Gram Sabha in particular.

11.5.2 As 50 years of 3 tier Panchayats was commemorated on 2nd Oct 09, 2nd Oct, 09 – 2nd Oct, 10 was observed as 'Year of the Gram Sabha' to highlight the critical importance of the Gram Sabha in self-governance and transparent & accountable functioning of the Gram Panchayat and also to strengthen the Gram Sabha.

11.5.3 Article 243A of the Constitution provides that that the "Gram Sabha may exercise such powers and perform such functions as the legislature of a State may, by law, decide". This provision is yet to be implemented in its spirit, which weakens the position of Panchayats as bodies accountable to the people and functioning in a transparent manner. Further, in many States Gram Panchayats are so large that people are not able to participate effectively. The creation of "Ward Sabhas" in large Gram Panchayats would enable effective citizen participation.

11.5.4 PESA provides a central role to the Gram Sabha in the Fifth Schedule areas. Under PESA, Gram Sabhas have (a) Mandatory executive functions and responsibilities to approve plans of the village Panchayat, identify beneficiaries for schemes for socioeconomic development, and issue certificate of utilization of funds by the Panchayats; (b) Right of mandatory consultations in the matters of land acquisition, resettlement and rehabilitation, and mining leases for minor minerals; (c) Powers to prevent alienation of land and restore alienated land; (d) Powers to restrict sale/consumption of liquor; (e) Powers to manage village markets, (f) Control money lending; (g) Powers to control institutions and functionaries in all social sectors, etc.

11.5.5 It is, accordingly, desirable that provisions for Ward Sabhas be made in the Constitution and functions of the Gram Sabha be incorporated in the Constitution, along the lines of PESA Act.

11.6 Representation of MPs and State Legislatures, MLAs & MLCs in PRIs

11.6.1 Article 243 C (3) (c) and (d) provides that State Legislatures may by law provide for the representation of MPs, MLAs and MLCs in the intermediate and district level Panchayats. However, this provision is not in tune with the promotion of grassroots democracy as envisioned in Part IX of the Constitution. The presence of MPs, MLAs & MLCs inhibits elected Panchayat representatives from effective participation, affects the decision making process and hampers the emergence of grassroots leadership.

11.6.2 It is accordingly desirable that the provisions that give discretion to the State Governments to make MPs, MLAs and MLCs members of Panchayats be repealed.

11.7 Rotation in the reservation of seats

11.7.1 While the Constitution does not mandate rotation of seats after just one election cycle, this often is the practice across States. It counters the intent of reservation. Candidates who win elections for the first time from reserved seats do not get adequate opportunity to gain in experience and grow in stature by getting re-elected. Often, powerful vested interests put up proxy candidates, who serve for a term, after which the seat gets de-reserved and becomes available to the existing powerful groups and individuals. Moreover, the rotation after one election cycle often leads to an unhealthy attitude of the elected, having little hope for re-election.

11.7.2 The 2nd ARC has recommended reservation for at least two terms to enable elected representation to grow as genuine leaders. Such a provision already exists in Tamil Nadu. It is argued that this would lead to a seat becoming available to a particular group (SC, ST, OBC, Women) after 4 decades and the right-to-recall should address the ills of one election cycle. But the balance of advantage would lie with rotation only after two election cycles.

11.7.3 Further, Article 243D provides that seats and offices of chairpersons reserved for SCs, STs and OBCs shall be allotted by rotation irrespective of their population in a Panchayat/Ward. Since, the proportion of population of these categories varies among Panchayats, this may lead to the situation that proportionate number of seats are not reserved for these categories in Panchayats/Wards, where their proportion is high, while disproportionate no. of seats are reserved for them in Panchayats where their population may be very low or even zero. This vitiates the spirit of reservation, and also increases resentment as the manner of reservation is seen as illogical.

11.7.4 It is, therefore, desirable that seats and offices of chairpersons be reserved for two continuous terms for a particular category and reservation be only in those territorial areas, Panchayats and District Councils where the population of a particular category is 5% or more.

11.8 Reconciling the term of the SFCs with that of the CFC.

11.8.1 Article 243 (I) of the Constitution states that the Governor of a State shall constitute a State Finance Commission (SFC) 'at the expiration of every fifth year' to review the financial position of Panchayats and make recommendations regarding the principles governing the distribution and assignment, of taxes, duties etc. between the State and Panchayats, and grants in aid to Panchayats from the Consolidated Fund of the State. Article 280 (3) (bb) requires the Central Finance Commission (CFC) to make recommendations on the measures needed to augment the Consolidated Fund of a State to supplement the resources of Panchayats in the State on the basis of the recommendations made by the SFCs.

11.8.2 The successive Finance Commissions have noted that as the period of the SFCs and the CFC was not synchronized, it was difficult to base the CFC report on the recommendations of the SFCs and State Governments should be empowered to constitute

and direct their respective SFCs to give their report well before the CFC finalises its recommendations.

11.8.3 The present wording in the Constitution ‘every fifth year’ limits the State Governments in constituting their SFCs so that the SFC reports are available to the CFC well in time. **It is desirable to amend Article 243I (1) of the Constitution suitably.**

11.9 Restructuring of the Legislative Councils

11.9.1 The Legislative Councils can be critical institutions to enable the Local Bodies to have a say in the formulation of State laws and protect their institutional interests. Through the Legislative Councils, an organic link between the State Government and the Local Bodies can be established, and the issue of inadequate devolution of powers and functions to the Local Bodies could be resolved through legislative debates.

11.9.2 Clause 3 of Article 171 (2) of the Constitution provides for the election of **only one third** of the members of the Legislative Councils by the electorate of Local Bodies. The remaining two-thirds are to be elected from among university graduates, teachers, persons elected by MLAs, etc. The ‘graduates’ and ‘teachers’ constituencies may have originally been conceived as a group of literate persons, when illiteracy was very high. With high literacy now, there is little logic in providing separate representation for graduates and teachers. Instead, the Legislative Councils need to be restructured to give larger representation to the Local Bodies, towards deepening the democratic process.

11.9.3 As Article 171 (2) of the Constitution empowers Parliament to change the composition of Legislative Councils by law, it is proposed that, **a law be framed under Article 171(2) to provide that two-thirds of the members of the Legislative Councils shall be elected from among the elected members of the Local Bodies.** A comparative chart of existing and proposed provisions is at **Annex-7.**

11.10 Nyaya Panchayat Bill, 2011

It is a bill to provide for the establishment of Nyaya Panchayats, at the level of every Village Panchayat or a group of Village Panchayats as the case may be depending on population and area, as a forum for resolution of disputes with peoples’ participation directed to providing a system of fair and speedy resolution of disputes arising in rural areas; access to justice, both civil and criminal, to the citizens at the grass-roots level, and for matters connected therewith or incidental thereto.

11.11 Dispute-free Village Scheme:

.....
.....

11.12 Extension of Urban Development Plans Formulation & Implementation (UDPI) to rural areas

Given the haphazard growth of the rural areas, particularly in the vicinity of urban areas and given its consequence for posterity and for the environment, it is necessary to have land use plan for the rural areas as well. States of Rajasthan and Goa have already taken initiative in this regard.

For this, the definition of local planning area under Section 37(1) of the Model Law needs to be extended to include the rural areas. It is appreciated that preparing land use plan for all the 2.33 lakhs Gram Panchayats (comprising approx 6 Lakh villages) would take a long time and will involve massive planning and monitoring. However, GPs with more than 5 thousand population could be taken up for land use planning in the first phase right now. GPs with less than 5 thousand population could be taken up subsequently. For this exercise, Town Planners will have to be posted under the respective Zilla Panchayats/DPCs.

MoPR has requested MoUD to amend the related Sections including Sec 37(1) of the Model Legislation to facilitate this initiative. The States are also being advised to carry out the necessary amendments in their respective enactments. The action should pave the way for village level master plans for land use planning.

11.13 Action Points:

- Adoption of the Model Panchayati Raj Act or its specific provisions by the States with appropriate modification
- Amements to Art. 243 of the Constitution
- Enactment of the Nyaya Panchayat Bill
- Extension of UDPI to rural areas.

Chapter ABC ROAD AHEAD

This chapter lists the Action points for nurturing the Panchayats into the institutions of self government in a multi-level democracy. The period for implementation of this Roadmap is the next 5 years.

12.1 Vision, Mission & Strategy for the Panchayats

Vision: to attain the Gram Swaraj dream of Mahatma Gandhi through “Power to the People.”

Mission: to enable Panchayats to function as institutions of Self-Government.

Strategies:

- (i) Progressive devolution of Functions, Funds and Functionaries (3Fs) upon the Panchayati Raj Institutions (PRIs).
- (ii) Positioning the Gram Sabhas at the core of PRIs for true self-governance & for accountable Panchayats.
- (iii) Devising institutions, systems and processes for enhancing efficiency and transparency of the PRIs.
- (iv) Building the organizational capacity of PRIs and the professional capacity of Elected Representatives and Official Functionaries so that they perform their mandated roles effectively.
- (v) Institutionalizing and using integrated decentralized participatory Planning through PRIs and DPCs for convergence of the plethora of schemes and pooling of diverse resources for better outcomes.
- (vi) Restructuring the Backward Region Grant Fund (BRGF) Programme to position the Panchayats as effective platform for mitigating regional backwardness.
- (vii) Institutionalize Panchayat level dispute resolution mechanism.
- (viii) Enhancing reservation for women in PRIs and also their leadership quality.
- (ix) Reviewing and upscaling the Rural Business Hubs to promote role of the Panchayats in economic development.

12.2 Efficiency and Accountability of the Panchayats

(a) Issues:

- Effective functioning of the Gram Sabha
- Enabled & Accountable Panchayats.

(b) Action Points

- Define powers of Gram Sabha in the Constitution and State legislation along the lines of PESA (GoI & States)
- Provide for Ward/Mahila Sabhas (GoI & States)

- Ensure effective functioning of the Gram Sabhas: regular & purposeful meetings, participation of marginalized groups, capacity building, awareness generation, etc. (States and Panchayats)
- Strengthen social audit and give proactive information to the Gram Sabha
- Grade performance of the Panchayats and provide incentives/disincentives based on such gradation.
- Establish Ombudsman
- Provide essential office space, manpower, infrastructure.

12.3 Functions of the Panchayats

(a) Issues

- Devolution of 3Fs upon the PRIs

(b) Action Points

- Devolve functions as per Activity Mapping. To begin with, 3Fs relating to atleast Primary Education, Primary Health, Women & Child (including/ICDS), Social Justice, Drinking Water & Sanitation, Agri Extension, to be devolved to the GPs. Similarly to the Block/Distt. Panchayats.(States)
- Prepare "Devolution Index" for all the States, and allocate part of allocation of CSSs in the Panchayat functional domain or equivalent block grant (when introduced) on the basis of this index. (GoI)
- Implement MoPR advisory dt. 19.1.09 on delineating roles of the PRIs in CSSs/ ACAs (GoI)

12.4 Functionaries of Panchayats

(a) Issues

- Inadequacy of Manpower
- Viable size of GP so that core staff, building etc. can be provided to all
- Adequate Capacity Building of functionaries.

(b) Action Points

- Provide at least PDO, Accountant-cum-DEO and Technical Assistant to each GP or a cluster of GPs with 6000 population.
- Compile information of all cadres, their strengths, vacancy positions, anticipated future vacancies with time lines, Recruitment Rules etc.
- Rationalize/ converge various cadres
- Corresponding changes in Administrative Orders and rules, etc.
- Give job description for each of the posts and develop skill development matrices for training of persons to discharge their duties efficiently

12.5 Finances of the Panchayats

(a) Issues

- Financial decentralization

- Fiscal Responsibility Regime
- Accounting & Audit

(b) Action Points

- Increase share of transfers to the PRIs from the State governments as untied grants by consolidating state schemes into untied grants (as Kerala has done), making these grants a share of state revenues, explicitly defining through state legislation a formula to allocate grants to PRI.(States)
- Give right to the Panchayats to levy and collect taxes on their own in order to reduce their dependence on state and central governments(States)
- Strengthen composition and functioning of the State Finance Commission.(States)
- Link devolution with performance: Allocations through CSSs to the States to be linked to the Devolution Index and to the Panchayats, based on their performance grading.(GoI)
- Strengthen Accounting & Audit system: Model Accounting System including PRIASoft to be implemented (States)
- Fulfil performance grant conditions under the 13th CFC award.(States)

12.6 Capability Building & Training

(a) Issues

- Continuous CBT of elected representatives and officials
- Specialized CBT for elected women/SC/ST representatives

(b) Action Points

- Implement National Capability Building Framework (NCBF) in letter & spirit.
- Increase reach of CBT through District / Block Training-cum-Resource Centres and outsourcing through PPP model.
- Promote alternative methods of training such as Interactive Self Learning materials/ Training films / other IEC inputs.
- Strengthen SIRDs, etc.
- Prepare perspective and annual training plans based on TNA etc.

12.7 Decentralized Planning

(a) Issues

- Quality and participatory nature of integrated District Plans following bottom up approach
- Limited capacity at various levels
- Entrenched interests against bottom up planning.

(b) Action Points

- Implement Planning Commission circulars of 25.08.06 for preparing integrated bottom up participatory plans to ensure convergence of plethora of schemes/resources for better outcomes. (GoI & States)

- Provide professional and technical support to the planning entities: including constitution of professional DPUs, use of Technical Support Institutions (GoI & States).
- Appropriate training and Capacity Building of PRI members and functionaries (States).
- Expedite use of Plan Plus software (States).

12.8 e-Governance

(a) Issue:

- operationalising e-Panchayat in a Mission Mode

(b) Action Points:

- Provide ICT infrastructure and manpower to all GPs. (GoI & States)
- Have a clear strategy & roll out plan for e-Panchayat Project for which ISNA, BPR and DPR have been prepared for each State/UT. (States)
- Develop and deploy Core Common Applications within a year and also State specific Applications. (GoI & States)
- Form e-Panchayat society for pooling resources and flexible procedure.(States)

12.9 PESA

(c) Issues :

- Inadequate implementation of PESA

(d) Action Points

- Amend PESA Act to remove ambiguities (GoI).
- Frame PESA rules or adopt Model Rules framed by MoPR (States).
- Amend relevant subject laws and issue executive instructions (States and Central Ministries)
- Enable and activate Gram Sabhas (States & Panchayats)
- Build Capacity of functionaries implementing PESA(GoI & States).

12.10 Decentralized Governance in the North Eastern States

(a) Issues

- Lack of empowered, democratic village level bodies.

(b) Action Points

- Amend the Sixth Schedule and the State Acts (GoI & States)
- Establish DPCs and SFCs.
- Constitute High Powered Committee to address emerging issues (GoI & State).

12.11 Constitutional and Legal Framework

(a) Issues:

- Present justice delivery system being expensive, time –consuming, procedure ridden, technical and difficult to comprehend.
- Art. 243 of the Constitution being inadequate in establishing the Panchayats as the third tier of governance.
- Haphazard rural growth

(b) Action points:

- Enact NP Bill. In the meantime, launch Dispute-free Village scheme (GoI & States)
- Amend Art. 243 of the Constitution (GoI & States)
- Extend UDPFI to the rural areas (GoI & States).
