

**MINISTRY OF PANCHAYATI RAJ
CHIEF MINISTERS' CONFERENCE
ON**

**“POVERTY ALLEVIATION AND RURAL PROSPERITY THROUGH PANCHAYATI RAJ”
BACKGROUND NOTE AND ACTION POINTS**

“Panchayati Raj

The United Progressive Alliance (UPA) Government will ensure that all funds given to states for implementation of poverty alleviation and rural development schemes by Panchayats are neither delayed nor diverted. Monitoring will be strict. In addition, after consultations with states, the UPA Government will consider crediting elected Panchayats with such funds directly.

Devolution of funds will be accompanied by similar devolution of functions and functionaries as well. Regular elections to panchayat bodies will be ensured and the amended Act in respect of the Fifth and Sixth Schedule Areas will be implemented.

The UPA Government will ensure that the Gram Sabha is empowered to emerge as the foundation of Panchayati Raj.”

- Common Minimum Programme of the United Progressive Alliance

1. The decade of economic reforms of India has not impacted adequately on poverty alleviation or raising prosperity in rural India. The key instrument for integrating economic reforms with institutional reforms in the countryside is Gandhiji's farsighted goal of Poorna Swaraj through Gram Swaraj, as given Constitutional shape and sanction by Shri Rajiv Gandhi's vision of empowering Panchayati Raj Institutions to function as “institutions of self-government” to plan and implement programmes of economic development and social justice, as defined in Article 243G of Part IX of the Constitution.

2. The Lok Sabha and Rajya Sabha passed legislation incorporating panchayats and municipalities into the Constitution on 22-23 December 1992. Part-IX (Panchayats) was gazetted with the President's consent on 24th April 1993 and Part-IX-A (Municipalities) was gazetted the following month. The enactment of Panchayati Raj, therefore, has been made irreversible. Our challenge today is to institutionalise this system of local self-governance to make India not only the world's largest democracy, but also to make it the world's most representative and participatory democracy. Much remains to be done, however, before we can actually claim to have empowered the elected local bodies to function as “institutions of self-government” – the key provision of which are Article 243G of Part-IX and Article 243W of Part-IXA which define the over-arching goal of effective Panchayati Raj.

3. Parliament's Standing Committee on Urban and Rural Development tabled in both Houses of Parliament in November 2002 its unanimous 37th Report on the “Implementation of Part-IX” on the occasion of the 10th anniversary of the passage of the 73rd and 74th amendments. A debate on Panchayati Raj based on this Report was held in both Houses in July 2003. No fundamental objections were raised

to the analysis or recommendations of the Report. Accordingly, the 37th Report of the Standing Committee (hereafter referred to as 37th Report) may be taken to represent the national consensus in Parliament on the present stage of implementation and the way forward. Based on the 37th Report, this Background Note details and elaborates key issues requiring consideration of the Chief Ministers in the light of the provisions of the Common Minimum Programme relating to Panchayati Raj quoted at the top of this Note.

4. The XIth and XIIth Schedules of the Constitution indicate respectively the 29 and 18 subjects, functions relating to which might be devolved to the PRIs and municipalities. The Panchayats can only fulfil their responsibilities as institutions of self-government if devolution is patterned on a nexus between the 3 Fs – Functions, Functionaries and Finances. Few States have linked the formal devolution of functions to the means for actualising such devolution through the devolution of functionaries and finances.

Functions

5. The number of subjects listed for devolution under the Constitution and State Legislation is no less important than securing the effective devolution of these functions. Functions themselves need to be devolved through a transparent form of Activity Mapping so that each tier of the Panchayati Raj system knows which activity, relating to which function, has been devolved to that particular tier. Moreover, neither panchayat-level planning, nor the distribution of finances between different tiers of the system, is scientifically possible unless the devolution of finances is based on transparent Activity Mapping as between the three tiers. Also, Activity Mapping will facilitate devolution based on the principle of subsidiarity, that is, any task which can be accomplished at a lower level should not be undertaken at a higher level.

Functionaries

6. If functionaries remain under the disciplinary control of line departments, a situation of dyarchy develops in the PRIs at all levels. Therefore, to the extent that the functions of line departments are devolved, functionaries relating to these activities should also be transferred to the PRIs.

7. Parliament's Standing Committee on Urban and Rural Development has repeatedly urged the merger of the DRDA with the Zilla Parishads so that authority and responsibility are vested in the elected authority and not usurped by the bureaucracy. Indeed, the Standing Committee was disturbed to learn that far from dismantling the DRDAs the previous Government proposed to "strengthen" these agencies. Of course, the elected authority, whether at the Centre, the States or the PRIs, does require administrative and technical support from professionals and technical specialists. But even as the bureaucracy and technocracy is subordinated to the elected authority at the Centre and in the States in all democracies, including India, so too does the Constitutional requirement of "self-government" require the subordination of the bureaucracy and technocracy at the local government level to the elected local body.

8. While there can be no denying the critical importance of the bureaucracy and technocracy in planning, executing and monitoring the whole gamut of poverty alleviation and rural prosperity schemes, participatory development demands that elected local body representatives be answerable to their

electorates. The bureaucracy and the technocracy should serve the elected representatives at the panchayat level on the same principle that they serve the elected authority at the state and central levels.

9. To a very large extent, PRIs (and municipalities) are functioning as implementing agencies of the State and Central Governments and not as “institutions of self-government”. This is because they are required to implement schemes in the preparation of which they have no say and through bureaucratic mechanisms in which they have little voice.

10. The Task Force constituted by the Ministry of Rural Development identified the existence of between 300 to 400 development schemes at the district level. Many of these schemes had a specific and narrow scope with meagre financial allocations. There is a strong case for “mergers and acquisitions” in the entire sector of rural development schemes along with the rationalization and consolidation of many schemes. Broad guidelines could be circulated at the district level for decision making by members of the elected bodies from a broad “menu” or shelf of projects and schemes on offer.

Finances

11. The “sound finances” of the panchayats / municipalities is an obligation enjoined by Articles 243I and 243Y respectively of the Constitution. Yet, panchayats / municipalities are starved of finances in virtually all states. This has led to a situation where there has been a constitutionally mandated devolution of powers and responsibilities to the local bodies, but with no real means, financial or statutory, with which to implement the plethora of schemes and programmes devolved. This chicken and egg syndrome has led to Panchayati Raj and Municipality Administrations almost everywhere being discredited by mainline developmental administration leaving elected members disillusioned and frustrated by their very real powerlessness and impotence. Also, it is not unusual to see funds for rural development and poverty alleviation being temporarily diverted to meet the ways and means requirements of State Governments. This has led to delays and even the lapsing of funds meant to be spent through the PRIs. The Common Minimum Programme has, therefore, called for finances targeted to the panchayats to be neither delayed nor diverted. The President’s Address has called for consideration to be given to progressively ensuring that budgetary allocations statutorily voted for by Parliament of functions relating to Centrally- sponsored and other schemes falling within the ambit of the XIth schedule be directly credited to the panchayats at the appropriate level.

12. It is also important that funds allocated by the central Finance Commission to the panchayats be credited to their account without delay or diversion. In this context, it is noteworthy that of the ad hoc provision of Rs.4381 crore made by the 10th Finance Commission for passing on to PRIs between 1996 and 2000, only Rs.3567.36 crore could be released by the Government of India in the absence of formal disbursement certificates by various State Governments. The XIth Finance Commission recommended the release of grants in the amount of Rs.1600 crore per year and further provided that undisbursed funds may be held in a trust account by the Central Government. This reflects the problems being encountered in devolving funds along with functions to empower PRIs as “institutions of self-government”.

13. The principle that finances devolving to PRIs of both States and Central Governments are to be managed / administered by the elected local bodies themselves and not resumed for planning,

implementation or expenditure by parastatal and parallel structure also requires to be upheld and reiterated.

14. Given the long delays and other hurdles being encountered in the implementation of those recommendations of State Finance Commissions which have been approved by the State Legislature, there may be need to statutorily mandate the time-bound implementation of such recommendations. Consideration might be given to constituting a Standing Committee of the State Legislature to keep a watch on the “sound finances of the elected local bodies”, particularly with a view to supervising and monitoring the progress in implementing the directions of the central Finance Commission and the approved recommendations of the State Finance Commission.

15. Fiscal responsibility and a sense of fiscal self-governance will evolve only when local bodies are obligated and empowered to complement the grants received by raising their own finances particularly through taxation in accordance with the provisions of Articles 243H and 243X. In many cases, schemes require that local bodies make matching contributions by raising local resources. These have been rendered infructuous due to the fact that most panchayats have not been empowered legally with sufficient positive powers to possess the credibility and teeth to levy and impose taxation.

16. In order to facilitate a well-planned husbanding of available resources, panchayats and municipalities should be informed as early as possible of what they might be expected to receive by way of tied and untied funds under various budgetary heads for implementing various schemes. This is an essential pre-requisite for each tier of the Panchayati Raj system to prepare plans for its areas of responsibility, as defined through Activity Mapping, and then for all these plans, along with plans of municipalities, to be “consolidated” by the District Planning Committees (DPC) as mandated by Article 243 ZD of the Constitution. It needs to be underlined that the Constitution does not provide for DPCs to prepare district plans on their own, but to “consolidate” local area plans drawn up at lower tiers in both rural and urban areas of each district (A different provision of the Constitution covers district planning for Metropolitan areas).

Planning

17. Article 243G defines the nodal role of panchayats at all levels in regard to local area planning, which, as noted earlier, is the indispensable pre-condition for PRIs to function as “institutions of self-government” and not as implementing agencies for plans and programmes they have had no hand in formulating. Further, as noted earlier, Article 243 ZD provides for the formation of DPCs to “consolidate” plans prepared within the district by panchayats at all levels and the municipalities.

18. Unfortunately, many States are yet to fulfil their mandatory constitutional obligation to constitute DPCs. Even when DPCs have been constituted, in the absence of local area plans being prepared in the panchayats and municipalities, DPCs are not consolidating, so much as directing, the activities to be undertaken. Instead of plans being formulated at the State or even District level, and subsequently disaggregated and farmed out to the panchayats and municipalities at various levels, it is important that panchayats and municipalities be empowered and integrated to formulate their own plans in consultation with the Gram Sabha / Ward Sabha.

19. Moreover, in vast numbers of PRIs even the management of welfare schemes is in the hands of Government staff deputed to manage the affairs of these bodies, with little or no supervision by the elected representatives. Women representatives are marginalised even further.

20. To this end, the experience in Kerala needs be replicated elsewhere after being refracted through the objective reality of economic, socio-political and cultural- educational diversities prevailing in different States.

Implementation

21. Article 243G also governs the role of PRIs in functioning as “institutions of self-government” for the *implementation* of programmes of economic development and social justice at the panchayat level. In the absence of the devolution of finance and functions along with functionaries, and proper Activity Mapping, panchayats at all levels have tended to function as the hand-maidens of the line department instead of playing their full role as “institutions of self-government”. Moreover, in the absence of works being awarded and supervised by Standing Committees of the panchayats, and final payments / utilization certificates not being authorised by the general body of the panchayats with the endorsement of the Gram/Ward Sabha, an undesirable nexus has come to be established between chairpersons of the panchayats at all levels and the local bureaucracy, which has led to a devolution of inefficiency and corruption rather than a devolution of functions, functionaries and finances.

22. Effective implementation of local works requires the participation of large numbers of panchayat / municipality representatives at each level through Ward or Panchayat Sub-Committees that execute the implementation jointly, enforce the monitoring parameters and undertake a collegiate supervision of the implementation of the work. Similarly, the role of the Gram/Ward Sabha is essential in the implementation of programmes which require beneficiary identification in a transparent and participatory manner and the award of utilization and completion certificates for various physical works undertaken.

23. Except for a few States, not enough has been done to devolve powers, resources, capacity and planning and implementation functions to PRIs in most part of the country.

Extension of Panchayati Raj in Schedules Areas (PESA)

24. Through an Act of Parliament passed in 1996, the provisions of the 73rd Amendment, with some modifications, were extended to the tribal areas under Schedule V in the States of Andhra Pradesh, Bihar, Gujarat, Himachal Pradesh, Maharashtra, Madhya Pradesh, Orissa and Rajasthan. Subsequently, Chattisgarh and Jharkhand were constituted as separate States. Almost all of Chhatisgarh and Jharkhand continue to have Schedule V status.

25. The main constitutional issue is whether PESA 1996 is to be implemented as such in Schedule V areas or treated merely as enabling model legislation. The main objective of PESA was to enable tribal society to assume control over their livelihoods, conserve and manage natural resources and protect their traditional rights. All States have enacted legislation as provided for in the Central Act. Notwithstanding the legislation it appears in the implementation it has been diluted at the cost of tribals. Critical issues such as access to natural resources, especially the definition and rights over minor forest product such as bamboo, remain unresolved and in general the intentions of the PESA have not been realized in any

serious measure in any of the States with large tribal populations. Capacity building efforts aimed at PRIs are especially weak in these States.

Role of women elected representatives

26. The reservation of 33% seats in PRIs for women was a revolutionary step to mainstream the role of women in governance and development. Over one million elected women representatives could take office as a result of this provision. However, a decade later, women in PRIs face certain unique problems in the discharge of their responsibilities. Besides the traditional barriers to women's role in public life, there is prejudice and lack of co-operation on the part of male colleagues in the PRIs as well as the Government machinery. Often, caste and other forms of discrimination act as an added dimension to the problem. The lower levels of female illiteracy and lack of focussed efforts in most States to build the capacity and knowledge base of women representatives have further compounded the challenges faced by these women.

27. The original intention in 1989 was to constitute a "Mahila Sabha" in each village panchayat areas as the women's counterpart to the Gram Sabha, so as to have "*saathins*" of the Mahila Sabha represent the views of the generality of women to the Gram Sabha. During the nineties, the idea was considered by the Government, but not accepted. The revival of this scheme might quickly facilitate the role of women in village self-government and strengthen elected women representatives in the discharge of their duties in panchayats at all levels as "institutions of self- government".

Gram Sabhas

28. Unlike the first two tiers of governance, that is, the State and the Union Government, PRIs and Municipalities are not subject to the checks and balances of a legislature. This watch dog role in the Panchayati Raj system and the role of advice and consent must be performed by the Gram Sabha, which has to function as the People's Parliament.

29. It is because villagers do not feel that they are stakeholders in the development process that Gram Sabha meetings have often been reduced to meaningless rituals, rubber stamping the work undertaken by the Sarpanch/elected representative. In order that the enactments of representative democracy be converted into a participatory democracy, it is essential that participation itself be converted from a means to an end, to an end in itself. The Gram Sabhas must necessarily be included in all major aspects of decision-making, project/need assessment and identification, executing strategies and beneficiary identification for government development schemes.

30. Perhaps, the way forward lies in all Gram Sabhas being empowered in the same way as Gram Sabhas in Schedule V areas have been empowered under PESA 1996, viz..

- (a) Beneficiary identification;
- (b) Approval of all plans and programmes of the Panchayats;
- (c) Authorization of the issue of utilization certificates.

Conclusion

31. Half a century of attempting to alleviate rural poverty and promote rural prosperity through the bureaucracy alone has not given the desired results. Parliament, through the Constitutional amendments of December 1992, held that participatory governance is the way to good governance. Parts-IX and IX-A

of the Constitution aim at grassroots developments through grassroots democracy. To fulfil this goal in a time-bound manner is the aim of the Action Points proposed below by the Union Ministry of Panchayati Raj to the Conference of Chief Ministers on “Poverty Alleviation and Rural Prosperity through Panchayati Raj”.

32. Action Points

1. Effective Devolution:

- i. The number of subjects listed for devolution is less important than securing effective devolution of functions related to these subjects. States may, therefore, prepare a five-year plan for effective devolution, aimed at accomplishing full devolution of functions, functionaries and finances for all devolved subjects in pre-determined annual stages over the next five years.
- ii. For devolution to the PRIs, there should be a clear demarcation subject-wise of functions devolved to each of the three tiers of the PRIs. Such demarcation would be essential to determining the contingent devolution of functionaries and finances to each of the three tiers of the system. Technically, this is called ‘activity mapping’. A working group of the Union Ministry of Rural Development has undertaken a detailed illustrative exercise in activity mapping. Based on that model, States should initiate activity mapping within this calendar year with the aim of completing the exercise as soon as possible.
- iii. Devolution should be based on the principle of “subsidiarity”, that is, whatever can be accomplished at a lower level should be entrusted to that level. Only that which cannot be effectively implemented at a lower tier might be taken to a higher tier.
- iv. Devolution may also be made irreversible: a function once devolved should not be arbitrarily taken back. Therefore, it would be preferable to make provision for devolution through legislation rather than administrative orders.

2. Finances:

- i. The “sound finances” of the panchayats/municipalities is a constitutional obligation enjoined by Article 243I and 243Y respectively.
- ii. Therefore, as an integral part of activity mapping, the quantum of finances that will be made available on a five-year and annual basis to the panchayats/municipalities at each level must be indicated as unambiguously as possible. On the basis of the experience gathered hitherto, and their respective road maps for effective devolution, states must give urgent attention to letting the elected local bodies know what they might expect by way of tied and untied grants, as well as what resources they are expected to raise on their own.
- iii. It has to be considered whether moneys for programmes related to functions devolved in terms of the Eleventh and Twelfth Schedules – estimated at Rs. 31,000 crore per annum, are channeled direct to the panchayats at the appropriate level. Restructuring of planning and implementation mechanisms and monitoring agencies at the central level may be needed to ensure there is no centralization in the name of decentralization. Central and centrally-sponsored schemes should be so conceived and executed as to promote and not impede effective devolution and the larger constitutional purposes of elected local bodies functioning as institutions of local self-government.
- iv. Moreover, finances devolved to the panchayats/municipalities by the state or central governments must be managed and administered by the elected bodies themselves and not resumed for planning, implementation or expenditure by para-statal bodies or parallel structures.

- v. Strict monitoring of Finance Commission grants to the elected local bodies which is a constitutionally mandatory requirement has to be ensured.
- vi. State Finance Commission recommendations are recommendatory not mandatory in nature. The State Governments should place the recommendations of the State Finance Commissions before the legislatures with Action Taken Report, and fully implement the recommendations. State governments may undertake a review of the state of implementation of all accepted recommendations. Consideration may also be given to establishing a standing committee of the state legislature to keep a watch on the “sound finances” of the elected local bodies, particularly with a view to supervising and monitoring the progress in implementing central and state finance commission recommendations.
- vii. Elected local bodies cannot function as “institutions of local self-government” until they are endowed with substantial untied funds which they can spend not as directed by the central/state governments but as determined by the panchayats in consultation with gram/ward sabhas.
- viii. Moreover, fiscal responsibility will evolve only when local bodies are empowered and obliged to complement grants received by raising their own finances through taxation, particularly forms of taxation which enable the local bodies, in accordance with the provisions of Articles 243H and 243X, to “appropriate” the revenues so raised for their own purposes instead of being obliged to credit them to the consolidated fund. District panchayats and municipalities may also be encouraged and assisted in raising funds through bond issues.
- ix. States may, therefore, prepare a road-map for untying as large a proportion of grants to the panchayats/municipalities as possible, and the center may be urged to follow suit. State Finance Commissions may be requested to pay particular attention to augmenting the fiscal self-reliance of the elected local bodies. The Twelfth Finance Commission may be requested to prepare guidelines for State Finance Commissions to follow so that there is an element of uniformity in the format of recommendations of State Finance Commissions’ Reports.

3. Functionaries:

- i. Democracy requires the subordination of the bureaucracy to the elected representatives. This applies as much to the third level of governance through the elected local bodies as it does to governance at the level of the state or Union government.
- ii. Merger of District Rural Development Agencies (DRDAs) with the district panchayat (zila parishad) under the chairpersonship of the district panchayat chairperson should be considered, as recommended by the 37th Report.
- iii. Functionaries posted to the PRIs must be brought under the authority and discipline of the elected bodies. Progressively, states should build a cadre of bureaucrats and technocrats who would be constituted into a Panchayats Service.
- iv. PRIs must be left free to determine the number of bureaucrats/technocrats on their rolls so as to free them of the financial overburden of excess staff which plagues state governments
- v. At present, the decisions and functioning of PRIs is subject to review by bureaucratic authorities who are often empowered to over-rule the elected authority. States may move towards a system of peer review, where it is the panchayat at the higher level, rather than the bureaucracy, which reviews and rectifies errors at the lower level. Where decisions of the district panchayat require review, a standing committee of the legislature may be constituted to undertake this task. For the municipalities, a parallel system of peer review may be put in place. Of course, since the minister is ultimately responsible to the

legislature for the elected local bodies, he must remain the authority of last resort on matters that are not resolved at lower levels.

4. **Planning:**

- i. Many states are still to fulfill their mandatory constitutional obligation to constitute District Planning Committees (DPCs) in accordance with the procedure set out in Article 243 ZD of Part IXA of the Constitution. As this amounts to a serious violation of Constitutional provisions, it is essential that DPCs be duly constituted in every district.
- ii. Few states have demonstrated adequate awareness of the centrality accorded by the Constitution to planning at the grass-roots level. “The preparation of plans for economic development and social justice” is the key functional obligation devolved on the panchayats/municipalities as “institutions of self-government” by Articles 243G and 243W respectively.
- iii. Such planning is required constitutionally to be undertaken at each level of the PRIs, including *separately* the village panchayat, the intermediate panchayat and the district panchayat. Similarly, nagar panchayats and municipalities are required to prepare their own plans. The “consolidation” of all these separate plans – of the panchayats and the municipalities – is required to be undertaken by the DPC, as set out in Article 243ZD. The consolidated district plan is then to be forwarded to the state authority. Consideration may be given to the convening of a general assembly of all panchayat/municipality representatives to endorse the plan consolidated by the DPC so as to strengthen the democratic credentials of the DPC plan for integration into the state plan. Such detailed district planning according to the constitutional schema is being undertaken virtually nowhere. A five-year road-map, with annual milestones, for effective participatory district planning in each state is thus an imperative need.
- iv. District plans are a vital input for effective state planning, even as state plans are a crucial input for national-level planning. Therefore, the national goal should be to ensure that the Eleventh Plan commencing in 2007 is firmly anchored in district plans prepared by the DPCs according to the constitutional mandate.
- v. The Planning Commission, for its part, must recognize that it can and must play a crucial role in encouraging grassroots planning by insisting on the district plans component before sanctioning the annual state plans.
- vi. The constitutional mandate stipulates that planning by the elected local bodies shall be subject to such conditions as may be laid down by the state legislatures. States may please ensure that adequate legislative provision is made for effective district planning. Such legislative provision may pay particular attention to the requirements of “social justice” stipulated in the Constitution. This is essential to ensure that the weaker sections, including women, are fully benefited by and not discriminated against in the processes of grassroots planning.
- vii. Effective planning also requires that elected local bodies at every level have a fair idea of the resources that will be available to them on an annual and five-year basis, as also a clear idea of the resources they can raise and retain on their own. State governments need to ensure that this information is made available to each elected local body. The resources availability should also be clearly and categorically provided for in state budgets.
- viii. The key to participatory planning lies in mobilizing the local community to articulate their priorities in an informed and intelligent manner so that grassroots planning moves from being the preparation of a wish-list into a feasible, responsible plan. To this end, the gram sabha, or better still, the ward/neighbourhood sabha, is where the process must begin.
- ix. Planning at the gram sabha/ward sabha level should be preceded and accompanied by

an awareness campaign mounted by activists drawn from the local community and civil society generally so that the community is conscientized about the significance of grassroots planning for their own welfare and development.

- x. Moreover, professionally qualified and experienced elements of the local community (serving and retired) should be mobilized and co-opted into rationally assessing and explaining the alternatives to the people to facilitate informed choice by the local community.
- xi. Each state may, in association with civil society representatives, make arrangements for launching such a people's movement.

5. Implementation of programmes:

- i. As "institutions of local self-government", PRIs at all three levels are required under Article 243G to undertake the "implementation of programmes of economic development and social justice." Progress in this regard has been most inadequate in most states. This is partly because paper devolution has not been accompanied by effective devolution, but largely because even where PRIs are involved in implementation they function more as implementation agencies of government programmes than as "institutions of local self-government".
- ii. A key element of effective implementation must be the restructuring of line departments into no more than secretariat offices as part and parcel of the effective devolution of functions, and related functionaries and finances, to the panchayats.
- iii. Retaining line departments while apparently devolving planning and implementation to the elected local bodies has forestalled panchayats from evolving into "institutions of local self-government". Worse, the nexus established between the bureaucracy and the chairpersons of the PRIs has fostered widespread corruption, leading to the defaming and discrediting of the Panchayati Raj system as a whole. The restructuring of line departments for devolved subjects will not only subordinate the bureaucracy to the elected authority, it will forestall implementation being perverted into the chairperson and the bureaucracy sharing the spoils.
- iv. Chairpersons of local bodies must function as chairpersons-in-council, taking the consent of the general body of the panchayat/municipality for all decisions. To this end, not only must the elected local body as a whole, and not just the chairperson, be the implementing authority, the gram/ward/neighbourhood sabha must be deeply and continuously involved in the process. Concurrent social audit is the most effective check on corruption.
- v. Effective implementation requires the participation of all members of the panchayat at each level through subjects committees that will manage the implementation; jointly call for tenders, examine bids and, with the consent of all concerned, award contracts; and undertake collegiate supervision by the concerned subject committee as a whole of the implementation of works so that there is complete satisfaction before payments are made.
- vi. The role of the gram/ward sabhas in this regard is crucial. Programmes undertaken by panchayats should initially be approved by gram/ward sabhas; utilisation certificates must statutorily require prior gram sabha approval; and beneficiary identification must be done transparently in the presence of all members of the gram/ward sabha.
- vii. States may prepare road-maps for effective time-bound implementation arrangements.

6. Gram Sabhas:

- i. Unlike the first two tiers of governance – the state and the centre – PRIs/municipalities do

not have legislatures to act as a check and a break on the executive authority. In the Panchayati Raj system that role of advice and consent has to be performed by the gram sabhas functioning effectively as people's parliaments. Weak or ineffective gram sabhas fuel corruption and social discrimination. A strong system of gram sabhas is thus the foundation of good governance through Panchayati Raj.

- ii. The size of the gram sabha varies from state to state and even within states. Experience has shown that the larger the gram sabha the less effective it is and the more liable to capture by the dominant element in the panchayat area. The answer to this lies in ward/neighbourhood sabhas for populations of around 200-300 so that all elements of the local community are able to articulate their concerns. Some states have already made such arrangements. Others may reinforce their gram sabhas by establishing ward/neighbourhood sabhas.
- iii. Attendance at gram sabha meetings has been thin and declining virtually everywhere. Villagers do not feel they are stakeholders in the gram sabha because the role and functions of the gram sabha are inadequate, even non-existent. For the meaningful empowerment of the gram/ward sabhas, they must be entitled to all the information required for transparent and good governance, as well as given duties which would make the elected panchayat answerable to the gram/ward sabha. At a minimum, gram/ward sabhas should be empowered to approve all plans and programmes for economic development and social justice before implementation begins; be entitled to authorize the issue or withholding of utilization certificates for funds allocated to different projects/programmes of the panchayat; and given full powers for the identification of beneficiaries for beneficiary-oriented poverty alleviation programmes.
- vi. The participation of women in gram/ward sabha meetings has been woeful. To rectify this, mahila sabhas comprising all adult women voters might be organized at gram/ward level so that they can discuss among themselves issues coming before the larger meeting and authorize from among themselves spokespersons (or *saathins*) who will speak for the mahila sabha at the panchayat and gram sabha levels.
- v. Legislative and other steps may be taken to ensure that the powers and responsibilities of the gram/ward sabhas are spelt out and mahila sabhas begin functioning.

7. Women:

- i. In many states, a disproportionate number of no-confidence motions are being moved against women chairpersons with the ulterior objective of replacing them with men. To forestall such malpractice, states may make immediate provision in their laws to ensure that if a woman chairperson is removed for want of confidence, her place can be taken only by another woman.
- ii. Although in an increasing number of states, women are showing themselves capable of standing and winning from general seats, by and large it is reservations that are responsible for nearly one lakh women holding elective position in the panchayats. The Constitution has left it to the states to decide the frequency of rotation of seats reserved for women. On the basis of their own experience and of others, states are requested to undertake a thorough review of the functioning of rotations and introduce appropriate reforms before the next round of panchayat/municipal elections.

8. Reservations for Scheduled Castes/Tribes:

- i. The system of reservations, as it is being implemented, needs serious review and revamping to bring it in line with the constitutional provisions. Articles 243D and 243T, relating respectively to the panchayats and municipalities, clearly state that the number of

seats to be reserved in any panchayat/municipal area should be related to the proportion of SC/ST “in that panchayat/municipal area.” However, almost all states have instead taken the state average for SC/ST and reserved that proportion of states/posts on a rough-and-ready basis, leading to anomalies like SC/ST chairpersons in panchayats/municipalities where SC/ST representation is small and general category chairpersons in panchayats/municipalities where the SC/ST presence is strong. This also leads to demands for rotation. Rotation of SC/ST seats is not provided for in the Constitution because the constitutional scheme envisaged reservations not on the basis of the ratio of population in the state but the ratio in each panchayat at that level. States may, therefore, take a fresh look at the system of reservations to bring their respective systems in consonance with the constitutional schema.

9. Special problems of SC/ST

- i. It was to take into account the very real danger of PRIs and even municipalities being misused to institutionalize discrimination and empower the elite at the expense of the ordinary citizen that, when the Constitution was amended to incorporate Parts IX and IXA on the Panchayats and the Municipalities, apart from reservations for the weaker sections, “social justice” was explicitly integrated with economic development as integral to the planning and implementation functions of elected local bodies as “institutions of local self-government.”
- ii. State governments need to recognize, as most in any case do, that constitutional and legal measures for social justice might set the stage but it is at the grassroots that the closest vigilance has to be maintained. Therefore, in addition to concurrent social audit by gram/ward sabhas, which is the most effective way of checking prejudice and discrimination, DPCs may exercise due diligence to ensure that the social justice component is integrated into all development plans and social welfare schemes; that social justice committees are established at all three levels in the PRIs as well as in the municipalities; that a grievance redressal machinery is built into the framework of the Panchayati Raj system; and that encouragement is given to the weaker sections to articulate their grievances in gram/ward sabha meetings.
- iii. With regard to ST communities, implementation of conservation and forest laws calls for a thorough time-bound review by all states of the adverse, if unintended, consequences of the way in which forest conservation – in itself an important goal – is being implemented on the ground. It is equally necessary that forest development agencies function under the aegis of the panchayats in tribal areas in strict accord with the provisions of PESA – The Provisions of Panchayats (Extension to Scheduled Areas) Act, 1996 (see the next point below).
- iv. For Fifth Schedule areas, Article 243M (3) (b) provides that it is not state legislatures but Parliament which will enact the Panchayati Raj legislation. To this end, Parliament has passed the Provisions of Panchayats (Extension to Scheduled Areas) Act, 1996 [PESA], based on the Bhuria committee recommendations. PESA is an excellent Act, but is hardly being implemented, uniformly or strictly, in any Fifth Schedule area. A road-map for the time-bound implementation of the Act is essential on the part of all states incorporating Fifth Schedule areas.
- v. Even if it is in accordance with the law and constitution for Fifth Schedule states to enact their own legislation, such states are urged to incorporate in their legislation the PESA provisions in respect of the empowerment and functions of the gram sabhas, as also tribal community rights over natural, mineral and forest resources specified in the central Act. With this in mind, states concerned may undertake a time-bound review of their extant legislation.

10. Elections:

- i. Although the Constitution provides for elections before the expiry of five years of the first meeting of the elected local bodies, there have been serious delays in many states in the conduct of timely elections. The Supreme Court has laid down the exceptional circumstances in which a slight delay may be condoned as unavoidable, but the practice of delaying elections on other grounds has become regrettably widespread. This is as true of elections as of bye-elections.
- ii. The Constitution stipulates in Article 243E (4) and 243U (4) respectively that if a panchayat is dissolved for any reason, elections must be held within six months to reconstitute that particular panchayat. This provision has been so interpreted as to dissolve all panchayats and then avail of the six-months provision to not hold elections at all.
- iii. States must commit themselves to holding elections within the time-period stipulated subject only to the exceptional conditions set out in the Supreme Court order.
- iv. Complaints of electoral malpractice are widespread. State election commissions, in consultation with the central Election Commission, may consider ways and means of ridding local bodies' elections of electoral malpractice.

11. Audit:

- i. The audit of the accounts of elected local bodies has generally been so tardy and haphazard as to have virtually ceased to have practical effect in ensuring the integrity of PRIs.
- ii. State Auditors-General, in consultation with the Comptroller & Auditor General of India, may be advised to urgently identify and correct deficiencies in this regard.

12. Union Territories without Legislatures:

- i. Several complaints have been received from the Panchayati Raj Authorities in Union Territories that significant improvement need to be made both in respect of legislations and practice of Panchayati Raj Act in these. This may be undertaken in conjunction with the suggestion that "mini-assemblies" be established in the UTs.

13. Parallel Bodies:

- i. Once devolution of any subject or range of subjects receives the approval of the legislature by the passage of the required state legislation, setting up parallel programmes to run through "nodal officers" programmes which stand constitutionally and legally devolved to the PRIs, or parastatal bodies to administer functions and finances devolved to the local bodies, constitutes a travesty of the constitution and the law, and undermines the purposes for which the Constitution was amended by the 73rd and 74th amendments. As such, all parallel programmes and parallel parastatal bodies might be abolished. Functions (and related finances) devolved to the PRIs must be exercised solely through the elected local bodies.
- ii. As regards bodies like Parents-Teachers Associations and Water Users Association, their legitimacy may be recognized but they might be brought under the overall aegis of the PRIs and not left to function as parallel bodies outside the Panchayati Raj system. In particular, forest development agencies must function under the overall aegis of the panchayats in accordance with the provisions of PESA.
- iii. The practice of appointing bureaucrats or ministers as chairpersons of the DPCs needs to

be discouraged as this tends to convert DPCs into parallel bodies. Moreover, as district plans, according to the Constitution (Articles 243G and W respectively), have to conform to the “conditions” stipulated by the state legislature and have, in any case, to be submitted to the state authority, it is in the state capital and not at the district level that ministers and state governments should have their say. Therefore, to ensure that DPCs reflect the consensus of the elected local bodies rather than perspectives imposed from outside, the chairpersonship of the DPC should invariably vest in the chairperson of the district panchayat chairperson.

- iv. Equally, planning mechanisms which second-guess or substitute the functions of the DPCs at the district level must be wound up forthwith as they are subversive of elected local bodies fulfilling their constitutional role as “institutions of local self-government.

14. Capacity-building and Training:

- i. In association with specialist academic institutions and experts, NGOs, and civil society in general, state governments need to embark on a sustained programme of capacity-building and training at all levels from the gram/mahila sabha and the elected local bodies (especially women and the weaker sections of society) to the DPCs and the bureaucracy at all levels, extending to MPs and MLAs, to optimize the working of Panchayati Raj to the benefit of all.
- ii. Distance education has a particularly important role to play in training and the multimedia programmes devised by the Indira Gandhi open University deserve particular attention. Indeed, the electronic media constitute the single most cost-effective method of reaching large numbers of those concerned with the best available training talent in the state and country.

15. State of the Panchayats Report:

- i. To facilitate informed review and appraisal by the state legislature, Parliament and civil society/public opinion in general, the presentation of an annual State of the Panchayats Report, perhaps in conjunction with the annual budget.
- ii. As in the case of the Human Development Index, pioneered by the United Nations Development Programme but adopted by many state governments since, the core of the annual State of the Panchayats report might be a Devolution Index which would enable a ready measure to be made of the progress in promoting development through empowerment.
- iii. The Planning Commission in New Delhi might consider preparing a nation-wide Devolution Index, which would enable states to consider further progress based on the best practice obtaining in the nation.

16. Jurisprudence:

- i. Numerous cases relating to the interpretation of the constitutional and legal provisions of Panchayati Raj have been referred to the High Courts and the Supreme Court. The Supreme Court is already engaged in harmonizing the jurisprudence in this regard as there appear to be variations in judicial pronouncements on aspects of Panchayati Raj. A clear and consistent body of jurisprudence is essential for the full and proper implementation of the constitutional provisions in accordance with the letter and the spirit of the 73rd and 74th amendments.
- ii. It was the legislative practice in British India to attach a Local Government Memorandum to draft legislation (as is the practice now with the Financial Memorandum)

to ensure that legislation was in conformity with the devolved powers of local bodies. It would be appropriate to revive this practice.

- iii. The Constitution requires that extant legislation be reviewed to ensure that nothing in that legislation contravenes the provisions of Parts IX and IXA of the Constitution. However, virtually no state government has undertaken this exercise. It is recommended that the Law Commissions of the centre and the states be requested to study the matter and action be taken thereafter expeditiously.

33. The proposed Action Points have been clubbed together under different subject headings. It is proposed that meetings of all the State Ministers concerned be taken on each of these subject headings over the next 12 months. The Ministry of Panchayati Raj would be happy to host these meetings in Delhi or to accept invitations from State Governments to host one or more of these subject-wise Conferences in their respective States. The Ministry of Panchayati Raj further suggests that in making preparations for these Conferences extensive consultations be held with leading non-official think-tanks, academics and Panchayati Raj activists whose expertise and experience might be relevant to the subject.