

## Decentralization in India

### History, Laws and Politics

In India, the process of decentralization did not necessarily emerge from the demands of effective service delivery. It was mostly a three-pronged approach arising out of the intermingling of various political, social and economic factors. This chapter discusses the history of decentralization, the structures and the legal status, the fundamental processes including the political motivation involved and the outcomes of such a decentralized system on service deliveries in the Indian context. The first section of Chapter 3 contains the historical background of decentralization in India. Its second section discusses the legal status of decentralization in India, while the third section analyzes the enabling conditions for effective service delivery within the decentralized system.

#### **Historical background and political motivation of decentralization in India**

In India, the process of decentralization was conceptualized long back since the pre-independence era. The Constitution of India provided for Village Panchayats in the Directive Principles of the Constitution. Article 40 of the Constitution provided with the following that, ‘the State shall take steps to organize village panchayats and endow them with such power and authority as may be necessary to enable them to function as units of self-government.’ Although many state governments attempted to translate this Directive Principle into practice by enacting necessary legislation and creating Panchayati Raj Institutions (PRIs), but with limited success. Against this background, the need for providing a firm Constitutional status for PRIs became necessary.

#### ***The First Five Year Plan***

The initial efforts at outlining decentralized planning of development commenced with the First Five Year Plan (1951–56), which recognized the need to break up

the planning exercise into national, state, district and local community levels, but did not spell out how this was to be operationalized. In January 1957, therefore, a Committee under the chairmanship of Balwant Rai Mehta was formed by the National Development Council to enable the Government of India to spell out and frame the structure of the local self-governments. The Committee was assigned to examine the working of the Community Development Programme (1952) and the National Extension Service (1953) from the point of view of assessing the extent of popular participation and to recommend the creation of institutions through which such participation could be achieved. The Committee submitted its report in November 1957 and recommended the constitution of statutory elected local bodies with the necessary resources, power and authority devolved to them and a decentralized administrative system working under their control, underlying the scheme for 'democratic decentralization'. It also recommended that the basic unit of democratic decentralization should be located at the block/samiti level. This system finally came to be known as the Panchayati Raj System in India. The Committee also held that community development would only be deep and enduring when the community was involved in the planning, decision-making and implementation process.

Apart from making clear the process of forming an elected body at the basic block/samiti level, the committee further suggested the following; (i) the body must not be constrained by too much control of the government or government agencies, (ii) the body must be constituted for five years by indirect elections from the village panchayats, (iii) its functions should cover the development of agriculture in all its aspects, the promotion of local industries and others; (iv) services such as drinking water, road building, etc. and (v) the higher level body, zilla parishad, would play an advisory role.

### ***The Second Five Year Plan***

Following the recommendations of the Balwant Rai Mehta Committee, two new elements for the planning process were introduced in the Second Five Year Plan (1957–62), namely the establishment of the District Development Council and the drawing up of village plans and peoples' participation in planning through democratic decentralization. However, the attempt at decentralization of planning did not succeed as a proper enabling framework was not devised, both for planning and for integration of development activities at the micro-level. Further in 1957, as per the recommendations of the Committee, the village, block and district level Panchayat institutions were established in many states. However, they were not assigned any meaningful role or resources and were not given any place in

the planning framework. As a consequence, the structure of the PRIs did not develop the requisite democratic momentum and failed to cater to the needs of rural development. Research points out that there are several reasons for such an outcome which include political and bureaucratic resistance at the state level to share power and resources with local level institutions, domination of local elites over the major share of the benefits of welfare schemes, lack of capability at the local level and lack of political will.

Another prime concern in the history of the long debate on the PRIs was fiscal decentralization. The K. Santhanam Committee was appointed to look solely at the issue of PRI finance, in 1963. The fiscal capacity of PRIs tends to be limited, as rich resources of revenue are collected by higher levels of government, and the issue is still debated today. The Committee was asked to determine issues related to sanctioning of grants to PRIs by the state government, evolving mutual financial relations between the three tiers of PRIs, gifts and donations, handing over revenue in full or part to PRIs. The Committee recommended as follows: (i) Panchayats should have special powers to levy special tax on land revenues and home taxes, etc.; (ii) there should not be too many taxes to burden the people; (iii) all grants and subventions at the state level should be mobilized and sent in a consolidated form to various PRIs and (iv) a Panchayati Raj Finance Corporation should be set up to look into the financial resource of PRIs at all levels, provide loans and financial assistance to these grass-roots level governments and also provide technical support for non-financial requirements of villages. Post 73rd and 74th constitutional amendments, these issues have now been successfully transferred to the State Finance Commissions which are required to select taxes for assignment and sharing, identifying the principles for such sharing and assignment, determine the level of grants and recommend the final distribution of state's transfers to local authorities.

### ***The Third, Fourth and Fifth Five Year Plans***

In the Third Plan, once again there was re-emphasis on the decentralized planning process in many sectors. The Administrative Reforms Commission, in its Report of 1967, highlighted that district planning needed to be focused in those areas where local variations in the pattern and process of development were likely to yield quick results in terms of growth. It was emphasized that district authorities should be given a clear indication of the resources that would be made available so as to enable them to prepare purposeful plans at their level. Therefore, in the Fourth Plan, the emphasis shifted towards district planning. In 1969, the Planning Commission communicated guidelines to the states for formulating district plans detailing

the concept and methodology of drawing up such plans within the framework of annual, medium term and perspective plans. Accordingly a scheme of strengthening regional/district planning units was initiated by the Planning Commission. The concept of an integrated area approach was adopted and several states did prepare district plans. But once again the success was limited to three or four states. Two other initiatives were taken – the ‘Lead Bank’ scheme was introduced for preparation of ‘district credit plans’ and agencies for specific programmes like Command Area Development, Small Farmer Development and the development of Marginal Farmers and Agricultural labourers were set up. In the Fourth and Fifth Plans, little progress was made towards decentralizing the planning process although the guidelines on district planning led to several states formulating district plans during the Fifth Five Year Plan. However, except in Maharashtra, Gujarat and Karnataka, these were not integrated into the annual plans of the states.

Finally, in 1978, the Ashok Mehta Committee on Panchayati Raj recommended in its report that Panchayats ought to be strengthened into agencies capable of undertaking local planning. Consequently, a working group on block-level planning headed by M.L. Dantwala (1978) was set up by the government which identified the remoteness of planning agencies at the district level from the actual scene of action as the cause for mismatch of financial allocations with location-specific needs. The Group recommended the block as the appropriate sub-state planning level for proper appreciation of the needs of the people. It also asserted that the block level provides the vital link between clusters of villages and the district level and then into the region, state and national levels. The Planning Commission issued guidelines on formulation of block-level plans in tune with these recommendations. Initiatives in strengthening Panchayati Raj closely paralleled those for district planning. Although PRIs got off to a good start in the early sixties, these hopes were short-lived. With the possible exception of Maharashtra, Gujarat, Karnataka and West Bengal, elsewhere these institutions were either superseded or allowed very little freedom to operate, which inevitably led to their decline. Moreover, in the period of plan holiday, between the Third and Fourth Plan, in many States, Panchayats were superseded.

The next discernible policy shift at the central level took place in the eighties, in the period of Sixth, Seventh, Eighth and Annual plans. The trends in the eighties were majorly transformative in nature. Policy and Planning shifted from an inward-looking approach to an outward-oriented path of development. Even before the formal adoption of the SAP in 1991, since the early eighties itself, changes in the economic front like the New Economic Policy which brought about relaxation of controls and opening up the economy internally as well as externally started taking place. Certain global level developments also influenced the prevalent Planning techniques, which may be briefly summarized as follows:

- (i) collapse of the Soviet Union which weakened the rationale of interventionist regimes (Nunnenkamp, Manor, White, 1995);
- (ii) emergence of the New Political Economy with its strident insistence on ‘market friendliness’ and a dilution of the state’s role (Dasgupta, 1997);
- (iii) a disenchantment with ‘large governments’ to which the state as an institution contributed by virtue of its negative image;
- (iv) increasing emphasis on ‘transparency’, ‘accountability’ and ‘participation’ in governance;
- (v) structural Adjustment advocated by the Fund and Bank with emphasis on reduction of subsidies and more generally a ‘smaller state’.

All of these factors were cumulatively instrumental in exercising an influence over policymaking which was evident as the subsequent Five Year Plans materialized.

#### ***The Sixth, Seventh and Eighth Five Year Plans and the Annual Plans, 1989–1991***

In the following period, beginning from early eighties, disenchantment and disaffection with Union power became a major issue for the federal states. On the one hand, while in this period, the rise of non-Congress ruled, states like West Bengal, Karnataka and Andhra Pradesh demanded more autonomy and power for themselves; on the other hand under the Prime Ministership of Rajiv Gandhi, the centre was also getting convinced that the centralized mode of governance had failed to deliver the basic necessities to the intended beneficiaries. Therefore, in the Sixth, Seventh, Eighth and the interim Annual plans of 1989–1991, district planning within a multi-level planning framework was re-emphasized. However, proper administrative arrangements were not made to facilitate this process, there was also a lack of technical expertise and an absence of financial devolution, both of which acted as impediments in the process of democratic decentralization. Studies connected with the Planning Commission’s report on district planning (by the Working Group on District Planning headed by C.H. Hanumantha Rao, May, 1984) brought out the fact that planning from below was undermined by different streams of funding the district plan. In the Annual Plan periods, as States had to prepare their annual plans within the framework prescribed by the Government of India, they, in turn, prescribed rigid guidelines, which left little scope for flexibility to District Development Councils in preparation of their annual plans. Substantial funds were also retained at the State level and schemes were formulated by sectoral departments without much consultation with the District Development Council. The Working Group recommended the following steps to achieve the objective of meaningful district planning: (i) for good district

planning, functions, powers and finances need to be decentralized. States should outline the sharing of functions with districts; (ii) each district plan must reflect the basic objectives of the national plan and the divisible plan outlay ought to be distributed to districts on the basis of population, area and level of development; and (iii) District Planning Bodies consisting of a Chairman, Member-Secretary and about 50 members, in which the Collector is the Chief Co-ordinator should be set up. The District Planning Body should be assisted by a Chief Planning Officer assisted by block-level planning officers and technical experts from various disciplines.

**Table 3.1: Decentralization: Chronology of events up to 73rd and 74th Amendment Acts**

Year	Item	Events
First Plan, 51–56	Community Development Blocks	To break up planning exercise into national, state, district and local community levels
Second Plan, 56–61	District Development Councils	Drawing up of village plans and popular participation in planning through the process of democratic decentralization
1957	Balwant Rai Mehta Committee	Village, block, district panchayat institutions established
1967	Administrative Reforms Commission	Resources to be given/local variations accommodated, purposeful plan for area.
1969	Planning Commission	Formulated guidelines; detailed the concept of the district plan and methodology of drawing up such a plan in the framework of annual plans, medium-term plans and perspective plans
1978	M. L. Dantwala	Block level planning to form a link between village- and district-level planning
1983–84	Centrally Sponsored Scheme/ Reserve Bank of India	Strengthen district plan/district credit plan
1984	Hanumantha Rao Committee	Decentralization of function, powers and finances; setting up of district planning bodies and district planning cells
1985	G. V. K. Rao Committee	Administrative arrangements for rural development; District Panchayat to manage all development programmes

*Source:* Compiled from Official Documents of Ministry of PRI, GoI.

In 1985, the G. V. K. Rao Committee was set up by the government to review the administrative arrangements for rural development. The Rao Committee recommended that the District Panchayat should be the principal agency to manage all development programmes at the district level. Also, the Sarkaria Commission (1983) on Centre–State relations highlighted the need for participation of people's representatives in the planning and administrative machinery at the local level. A notable recommendation was the creation of a body akin to the Finance Commission at the State level for devolution or transfer of resources to the districts on an operational and objective basis. The details of the history of attempts to promote decentralized planning from the first plan onwards to the mid-eighties have been summarized in Table 3.1.

However, it was soon realized that any mild reformist tinkering with the system would no longer be sufficient. It required a more fundamental change at the district and sub-district level – from a bureaucratic administration to a more representative and responsive elected system of local self-governments. Such demands were also raised by the left ruled states of Kerala and West Bengal, which already began their journey on a decentralized plan and demanded a legal strengthening of the system. Consequently in 1989, the 64th amendment to the Constitution was proposed by the ruling party with the main objective of conferring constitutional status on Panchayats. This was the first effort at legal decentralization by the ruling Congress Government at the Centre. Yet the attempt was defeated in the upper House of the Parliament (Rajya Sabha) by two votes. Generally, the reasons cited for the failure of the attempt are:

- (i) First, the Parliament had no authority to consider such a Bill since local self-government and panchayats fall in the domain of the State list; and
- (ii) Second, the Amendment Bill was a violation of the true spirit of a federal government as provided by the Constitution.

There are several arguments which question the motive of such an amendment proposal to constitutionalize the decentralization reforms. As Bandyopadhyay (2004) argues that the Congress under Rajiv Gandhi's leadership was looking for some efficiency-enhancing administrative reforms that would address the problem of widespread inefficiency and callousness among administrators towards their developmental tasks at the district level. In addition, there was also a subtle motive of establishing a direct conduit between the centre and the sub-state level commencing from the district in the mechanism of devolution. The latter was a greater concern for non-Congress Chief Ministers (Jyoti Basu, Ramakrishna Hegde and N. T. Rama Rao) who were clamouring for greater devolution of powers for the federal governments at the state level. In other words, the amendment was accused in terms of the Centre trying to strengthen PRIs so that state governments

would find themselves in the same position vis-à-vis the panchayats as the Central Government vis-à-vis the states. Many others (Ghosh, 1989) corroborate this line of analysis, by affirming that the constitutional amendment is intended to bypass state governments and introduce direct links between the Central Government and 300 odd districts via the 'PM to DM' strategy (from the Prime Minister to the District Magistrate/also known as the Collector or the Deputy Commissioner who is the administrative/revenue head of the district). The latter would remain loyal to the PM through the network of centrally sponsored schemes.<sup>1</sup> This led to the clogging of the passage of the amendment that faced tremendous hostility even in the Lower House.

Thus, over a period of four decades from the beginning of a planned approach to development till the transition into an open and free market economy, there were several suggestions and attempts at decentralized planning. The conditions required were also outlined and repeated. However, the increase in the number of ministries, departments and parastatal at the Centre and in the states and the vertical planning, preparation of programmes and methods of funding stood in the way of decentralized planning becoming a reality. Finally in the year 1992, the year succeeding the adoption of the Structural Adjustment, the legislation of the 73rd and 74th Amendments to the Constitution gave constitutional status to local self-governments and provided a new, more politically underpinned, universalized platform for decentralized planning from below. This provided a constitutional status to the PRIs and Urban Local Bodies (ULBs). The basic features of both the acts are as follows: (i) the gram sabha or village assembly as a deliberative body to decentralized governance has been envisaged as the foundation of the Panchayati Raj System. At the urban level, nagar nigam (corporation) or nagar palikaa (municipality) are set up with wards at the lowest tiers of the local government; (ii) a uniform three-tier structure of Panchayats at village (Gram Panchayat – GP), intermediate or block (Panchayat Samiti – PS) and district (Zilla Parishad – ZP) levels; (iii) all the seats in a Panchayat at every level are to be filled by elections from respective territorial constituencies; (iv) not less than one-third of the total seats for membership as well as office of chairpersons of each tier has to be reserved for women; (v) reservations for weaker castes and tribes (SCs and STs) have to be provided at all levels in proportion to their population in the local bodies; (vi) to supervise, direct and control the regular and smooth elections to Panchayats and ULBs, a State Election Commission has to be constituted in every state and union territory, (vii) the Act has ensured constitution of a State Finance Commission in

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<sup>1</sup> There has been proliferation of centrally sponsored schemes (CSS) in the last two decades and the total number of CSS was more than 300. There have been some efforts at the central government level itself to reduce the number of CSS in recent years.

every State/UT, for every five years, to suggest measures to strengthen finances of PRIs and ULBs. The SFCs were also meant to recommend adequate devolution from the State Governments to PRIs and ULBs; (viii) to promote bottom-up planning, the District Planning Committee (DPC) in every district has been accorded constitutional status. The DPCs in each district are entrusted with the responsibility to formulate local level development plans for both rural and urban areas; and (ix) an indicative list of 29 items has been given in Eleventh Schedule of the 73rd Amendment to the Constitution. Panchayats are expected to play an effective role in planning and implementation of works related to these 29 items (list of 29 items given in Appendix 3A.1). Also the list of 18 items in Schedule 12 for the urban local bodies has been provided in the 74th Amendment to the Constitution (list of 29 items given in Appendix 3A.2).

### ***The Ninth Five Year Plan***

Consequently, in the period of the Ninth Plan, with democratic decentralization legalized with the enactment of the 73rd and 74th Constitutional Amendment Acts, most of the State Governments/UTs adopted the amendments and enabled legislations, providing for elected bodies at the village, intermediate (Taluka) and district levels with adequate representation from the weaker sections and women. Almost all the states constituted State Election Commissions and State Finance Commissions (SFCs) as stipulated and constituted Panchayati Raj bodies as per the new provisions with the exception of Bihar and Goa as the immediate aftermath. However, currently Bihar has set up a DPC in every district and also provisions for 50 per cent reservation for women in the PRIs, a clause unique to the entire country. The current status of DPCs across states is given below in Table 3.2.

Today, PRIs and ULBs are Constitutional entities. The State Governments have to endow these bodies with powers and authority necessary to enable them to function as institutions of local self-government with the responsibility of preparing plans for socio-economic development and for implementing them. The 29 and 18 subjects have to be brought under the purview of the Panchayats and the ULBs, respectively. However, in order that both the rural and the urban local bodies are able to undertake the responsibility entrusted to them, they require both financial and functional autonomy. It is necessary not only to ensure flow of funds to them from the consolidated funds of the states and from the Central Government via the centrally sponsored schemes (CSS), but also to give them independent revenue raising powers. The SFCs were also set up with one of the mandates of providing specific recommendations for making the Panchayats financially viable. In many States, the SFCs are being constituted regularly and

their recommendations accepted. However, in some states, the recommendations of the SFCs have either not been received on time or they are still under consideration of the state governments. In some states constitution of SFCs have been irregular.

**Table 3.2: Current status of district planning machinery in the states of India, November 2009**

<b>States/union territories</b>	<b>Status of constitution of DPCs</b>
Andhra Pradesh	Elections to DPC were conducted in July 2007. Government has also nominated four members to each DPC as required under the Act. The elections to DPC in Andhra Pradesh are conducted by the State Government but not the State Election Commission. Under the law, it is the ZP Chairperson who is to chair the DPC.
Arunachal Pradesh	Not yet constituted.
Assam	Constituted in all non-sixth schedule districts. The Chairperson of the ZP chairs the DPC
Bihar	Constituted in all 38 districts. Chairman ZP is the Chairman of DPCs.
Chhattisgarh	Four-fifths of the members are elected from among the elected representatives of zilla panchayat and municipalities. The Chairperson of a DPC can be an in charge Minister from Chhattisgarh and the Collector is the Member-Secretary.
Goa	Constituted. President of ZP is the Chairperson of DPC.
Gujarat	Constituted with the minister in charge as the chairperson and the District Panchayat President as Vice-chairperson as per the Gujarat District Planning Committees Act, 2008
Haryana	Constituted in all 20 districts.
Himachal Pradesh	Constituted in 12 districts. Minister is Chairperson of DPC.
Karnataka	Yes. In all districts. President, ZP is Chairman of DPC.
Jharkhand	Panchayat elections yet to be held.
Kerala	Yes, Chairman of District Panchayat (DP) is Chairman of DPC.
Madhya Pradesh	Yes. District in-charge Ministers are Chairpersons.
Maharashtra	Constituted with district-in-charge Minister as Chairperson of DPC and the District Collector as the member-secretary.

*Table 3.1 continued*

*Table 3.1 continued*

Manipur	Yes in four districts. Adhyaksha, DP is Chairperson
Orissa	30 Districts. Minister is Chairperson of DPC.
Punjab	Constituted with Ministers as chairperson/vice-chairperson.
Rajasthan	Yes. Chairman of DP is Chairman of DPC
Sikkim	Yes. DPC is chaired by the elected chairperson of the zilla panchayat. The District Development officer-cum-Panchayat officer (Member Secretary), All ZP members are members of DPC
Tamil Nadu	Yes. Chairperson, DP is Chairperson
Tripura	DPC has been constituted for the BRGF District, i.e. Dhalai District headed by one Executive Member of the Tripura Tribal Areas Autonomous District Council (Sixth Schedule areas) as Chairman with the concurrence of the Ministry of Panchayati Raj, Government of India
Uttar Pradesh	DPCs have been constituted for 70 districts.
Uttaranchal	DPCs are not notified or constituted, even though legal provision exists.
West Bengal	Yes. Chairperson, DP is Chairperson of DPC.
Andaman & Nicobar	Yes. Chairperson of DP is Chairman of DPC
Chandigarh	Not yet constituted.
D&N Haveli	Yes. Chairman, DP is Chairman of DPC
Daman Diu	Yes. Chairman, DP is Chairman of DPC
Lakhshadweep	Yes. Collector cum Dev. Commissioner is Chairperson.
Pondicherry	Panchayat lections yet to be held

*Source:* Compiled from The State of Panchayats, 2007–08: An independent assessment, Vol. I, GoI and Status and Functioning of District Planning Committees in India, November 2009, PRIA.

However, the success of the PRIs and ULBs in India is more on the political count rather than on the administrative count. India is ranked among the best performers on political decentralization, but it ranks close to last on administrative decentralization. This is due to the fact that all states have ratified the PRI Act, and elections to local bodies have taken place in all the states barring Jharkhand, yet setting up and smooth functioning of the three-tier local government is still awaited in some states, as has been mentioned earlier. Such imbalance between dimensions

undermines the functioning of the intergovernmental system. Although the state decentralization models are similar, there have been differences in terms of design and the pace of implementation. More fundamentally, the constitutional amendment has brought about uniformity on the political structure of local governments. The amendment has mandated a three-tier local government structure, accountability mechanisms such as the gram sabhas and mechanisms to promote inclusion, namely the reservations for women and SC/STs. All states have put these mechanisms in place. While the process of decentralization has been most successful in the state of Kerala, followed closely by West Bengal, and to a great extent by Karnataka, the other states have lagged behind in this respect. There have been some differences in design between states primarily on the relative sizes, roles and importance of gram, block and zilla panchayats. For example, Andhra Pradesh has prioritized the district level, while Rajasthan has given maximum importance to the block level. Other states have focused on gram panchayats. Within the basic model, there are also differences reflecting speed of implementation. Again, Kerala has transferred more fiscal resources to PRIs as untied grants than any other state and Maharashtra has moved faster in bringing sectoral staff under the control of PRIs. There also exist differences in terms of the status of SFCs and DPCs which have already been pointed out. Such differences have acted as impediments to effective service delivery through the local bodies, one of the important mandates for institutionalizing and legalizing the local bodies. In fact in terms of service delivery, there has been a considerable amount of administrative decentralization relative to fiscal decentralization, whereby funds are still controlled by the Centre or states. This aspect has been discussed in the following section.

### ***Decentralized mechanisms of health and education service delivery***

In terms of health service delivery at the local levels, the onus of delivery remains with the PRIs, although the state remains the primary administrator of system. The states follow a similar pattern and structure in terms of administrative decentralization. In terms of the health system prevailing within the states, the districts represent the level at which the services are delivered. The districts have sub-centres, primary health centres and community health centres, depending on the population served. At the same time, The Panchayati Raj Institutions (PRIs) or village assemblies have been allocated political powers for the administration of local governments. The PRIs are meant to be the political structures that develop and implement local development plans which set local priorities including areas such as health, RH, etc. Because the PRIs are new to these responsibilities, much of the planning and operation of the health system remains under the vertical line ministries at the federal and state level. Therefore, the entire decentralization

of health is administrative and not fiscal. The fiscal status is highly centralized remaining with the states. In fact in the recent years, the introduction of NRHM and other health-specific programmes introduced by the government point towards increased decentralized administrative system of functioning, but in terms of fiscal decentralization, the trends seem somewhat reversed given that these policy-specific funds are directly transferred by the Centre to the required local bodies even bypassing the states<sup>2</sup>. Such trends indicate towards greater centralization tendencies of fiscal aspects.

In terms of education, although the Central Government continues to play a leading role in the evolution and monitoring of educational policies and programmes within the country, the highest administrative control and the major responsibility of providing education to all remains with the States. However, in recent years such a structure has been perceived as inefficient in improving the education outcomes, decreasing illiteracy and raising the quality of education. It has been widely argued that decentralized education provisions would result in improved outcomes of education indicators. Decentralization of educational planning has been a major concern in India. The District Primary Education Programme (DPEP) started in 1996 has been an effort towards decentralization of the education system. While the DPEP initiatives have succeeded in overcoming existing constraints on decentralization by developing planning machinery and competency and by ensuring resource availability at the district level, the schemes of SSA and related education programmes have given greater effort in decentralizing the education system albeit only at the administrative levels and not at the fiscal levels. The fiscal controls have rested with the central governments for the policy programmes bypassing the states. Thus, the primary trend in India is that of increasing administrative decentralization, involving changing to a bottom-up planning process and greater latitude to execute activities at the district level with very limited fiscal decentralization.

## **Legal status of decentralization in India**

The amendments to the constitution have led to a legalized system of three-tier decentralized local bodies elected every five years separately at the rural and the urban levels. The Panchayati Raj system in rural areas and the urban local bodies (ULBs) were constituted into legal bodies by the 73rd and 74th Amendments to the Indian Constitution, respectively in 1992. The legal status of the present system has been discussed in this section.

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<sup>2</sup> However, Interim budget 2014-15 of the Union Government reversed this process of fund transfer by routing all the fund flow to the states through the consolidated fund of the states.

The 73rd Amendment of the Indian Constitution, legislated in 1992, installed village-based PRIs as the country's third level of governance after the central and state governments. The 73rd Amendment has been a formal instrument introduced by the centre and supported by the State Assemblies, to enforce a minimum level of rural decentralization uniformly across all states. This Amendment to the Constitution of India is considered to be a landmark in the evolution of Panchayati Raj in the country because it not only aimed at giving a constitutional status and devolution of 29 functions to the PRIs but also provided the mechanism for regular elections and raising the financial resources for the Panchayats to function as institutions of local self-government. Besides, it sought to ensure the empowerment of women and weaker sections – the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes – through reservations. The Amendment had been ratified by more than half of the State Assemblies. The Panchayati Raj system has also been extended to the Scheduled Areas. Soon after the amendments, the Provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996, was enacted that ensured that State legislations were in conformity with traditional practice and systems. The gram sabha in every village was made the authority to safeguard the customs and traditions. It would also identify beneficiaries and approve programmes for socio-economic development. The Panchayats should be endowed with ownership of minor forest produce and should be consulted for grant of prospecting licences or mining lease of minor minerals and also in the case of acquisition of land. The state governments will have to take appropriate action in this regard.

The 73rd Constitutional Amendment of 1992 and the Provisions of the 'Panchayats' (Extension to the Scheduled Areas) Act of 1996 (PESA) established mandatory provisions for decentralization to local governments in rural India that led to: (i) the creation of a three-tier local government structure at the district, block and village levels; (ii) constitution of State Election Commissions and state finance commissions; (iii) regular PRI elections with seat reservation for SCs/STs and women; (iv) establishment of Gram Sabha (village assembly) to exert control over local government; and (v) periodic auditing of local governments' accounts. About three million councilors, nearly a third of them women, have been elected to over 260,000 gram panchayats at village level, 6,500 panchayat samitis at sub-district level and 500 zilla parishads at the apex district level. The constitutional sanction to panchayati raj has provided a legal basis to the decentralization system and has simultaneously raised expectations and aspirations of the local communities.

The 73rd Amendment was followed by the 74th Amendment Act in the same year that legalized urban decentralized governance. The urban bodies with Municipal Corporations (nagar nigam) and Municipalities (nagar palika) were also established and provided with a legal status. These bodies were democratically elected bodies responsible for civic and administrative duties.

The Constitutional Amendment mandates political decentralization, leaving issues of design and implementation on sectoral, administrative and fiscal aspects to the states. The constitutional amendment provides an appropriate legislative framework to ensure minimum stability and continuity of local governments. The Constitutional process also required ratification by state politicians. To ensure state support to the amendment, the scope, details and pace of its implementation were left to the discretion of state governments and their legislatures. These included the definition of powers of lower units in the three-tier system and the transfer of sectoral, administrative and fiscal responsibilities to the local government (PRIs and Municipal Corporations). This was what decided the extent of decentralization in each state. Consequently, although the structure of decentralization across states remains the same, the degree of decentralization varies across states.

### ***Constitutional reform in education and health service delivery in India***

The debate over delivery of education and health services in India goes back to more than three and a half decades. In the original design of the Constitution, both education and health were in the State List of the Seventh Schedule. Through the 42nd Amendment of the Constitution, the List III (Concurrent List) was amended to include Section 25 relating to education.<sup>3</sup> The amendment, however, did not do the same for health: item 6 of the List II kept the status quo in public health and sanitation, hospitals and dispensaries. One other important provision in the 42nd Amendment was the insertion of ‘population control and family planning’ in List III.<sup>4</sup> Moreover, this provision was inserted as a corollary to the existing Item 20 which put economic and social planning in the Concurrent List from the time the Constitution came into force.

Therefore, the powers of the Central government expanded significantly both in the field of education and health after the enactment of the 42nd Amendment. While the increase in scope was clear in education, the division of responsibility between the Centre and the States in health has led to conflicting jurisdictions in health policy. More importantly, the 42nd Amendment betrayed a centralizing, rather than decentralizing tendency as far as the powers of the states were concerned.

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<sup>3</sup> Constitution (42nd Amendment) Act, 1976 [Education, including technical education, medical education and universities, subject to the provisions of entries 63,64,65 and 66 of List I; vocational and technical training of labour].

<sup>4</sup> Constitution (42nd Amendment) Act, 1976 [20A. Population control and family planning].

The decentralization debate was re-opened with the enactment of the 73rd and 74th Amendments to the Constitution pertaining to rural and urban local bodies, respectively. The Constitutional Amendment was far-reaching, giving panchayats the power to undertake local planning and implementing development schemes. Article 243G inserted through the 73rd Amendment related to the powers, authority and responsibility of the Panchayats reads:

Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary for them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to –

- (i) the preparation of plans for economic development and social justice;
- (ii) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

The Eleventh Schedule lists 29 items where the provisions of Article 243G may be applicable. The list includes nearly all areas of development policy, especially in education and health. Primary and secondary schools, technical training and vocational education, adult and non-formal education are listed as items that can be devolved to the panchayats in education. Health and sanitation, including primary health centres and dispensaries, women and child development, and family welfare are the items listed under health.

The 73rd Amendment, however, refrained from stipulating the powers of the panchayats. Apart from specifying that panchayats should come into existence at the village, intermediate and district levels, and other procedural matters, the Union Panchayati Raj Act did not mandate the powers (administrative and financial) explicitly. This was left as a prerogative of the States to decide the nature and the extent of devolution. As a result, the experience with decentralization in general has varied significantly across states in India. Although the PRI Act has been ratified by all the states, there exist differences among the states in terms of the levels of decentralization achieved. For example, states like Kerala, Karnataka and West Bengal are much ahead of other states. On the other hand, there are states such as Uttar Pradesh and Bihar which have only recently started their decentralization process, while Jharkhand's panchayat elections after nearly two decades of the enactment of the Union Panchayati Raj Act was conducted in 2010.

As discussed elsewhere in this report, the experiences with the Panchayati Raj Institutions (PRIs) have not been uniform over time even for states like Kerala and West Bengal which are considered to be the vanguard states as far

as decentralization is concerned. The political contexts of the decentralization process have also been very different. A comprehensive review of administrative and political decentralization is outside the scope of this review. We therefore concentrate on the two core areas of public service delivery – education and health. The objective would be to situate the debate on decentralization of these two core public services in the light of India's recent experience in two large 'flagship' schemes – the Sarva Shiksha Abhiyan (SSA) in education and the National Rural Health Mission (NRHM). The specific issue that we would like to examine is the role of the PRIs in decentralized public service delivery in these two programmes in particular and in the area of social sector schemes in general.

### **What and how to decentralize: Enabling conditions**

An Asian Development Bank (ADB) study by Kumar (2006) recently found certain enabling conditions for decentralization to work effectively. The study noted that decentralized service provision leads to improved allocative efficiency due to a better understanding of local preferences and to improved productive efficiency through increased accountability. The study emphasizes that the design of decentralization is vital for achieving efficiency gains. The study noted that the following conditions could lead to improved efficiency in service provision, viz. (i) authority to respond to local needs as well as adequate means of accountability; (ii) functions need to be devolved to a low enough level to improve allocative efficiency; and (iii) citizens should have channels to communicate their preferences and get their voices heard in local governments. To effectively influence local government activities, citizens need information on local government activities.

For effective service delivery and implementation of the several central government flagship programmes, it therefore becomes important to devolve a certain degree of autonomy to the local governments which understand the need of the locality in a better manner. Such measures can improve the efficiency of service delivery and have a simultaneous positive impact on the delivery outcomes. But these outcomes will be possible through several facilitating situations that constitute the enabling conditions for effective service delivery through decentralized system of functioning. Most important among these exercises would be a capacity development exercise aimed at skill development of the local level bodies and making them capable of performing and facilitating required duties. Increasing institutional capacities is also one of the key components for the development of the local bodies. Lastly and most importantly, coordination between political, administrative and interactions between other stakeholders like the civil societies and the local communities are also essential for an effective functioning of the system.

Although the amendments to the constitution to empower the PRIs and the ULBs and related legislations have played critical roles in decentralization in India in terms of providing, viz. (i) the decentralized structure a legal basis and maximizing democratic participation from a vast segment of the social fabric; (ii) a framework that is the basis for fiscal resource allocation and generation that benefits equitably all segments of society and (iii) guidelines for understanding and implementing participatory processes in order to ensure efficient service deliveries, yet such legal frameworks, although necessary, are not sufficient by themselves.

Many other elements need to be developed to facilitate success in decentralization, e.g. effective participation, equitable partnerships, capacities at the local and central levels, innovative leadership, sufficient resources and others. Apart from training on capacity building, more fundamental would be to grant autonomy in terms of devolution of funds to the local bodies by the states and predictability of fund. The rule-based fiscal control through the Fiscal Responsibility Act (FRA) as introduced in all the states for fiscal consolidation may act as an obstacle to effective decentralization by reducing devolution of funds. While resource mobilization by PRIs and ULBs are generally limited, it is imperative to provide them with revenue-raising powers of their own in order to reduce their excessive dependence on the State and Central Governments. There are taxes which can be collected by local bodies. Entertainment tax, share of net proceeds on state taxes, various forms of cesses on land revenues, agriculture and other fees can be earmarked for PRIs. Some of this is already in practice in West Bengal, Kerala and Karnataka. In case of ULBs too, they would be permitted to levy their own taxes and cesses at the local level which could include professional tax, property tax, entertainment tax and motor vehicle tax. In addition, there is considerable scope for them to levy user charges and licence fees. Wherever feasible, elected bodies should be allowed to borrow for productive infrastructure projects subject to credit worthiness.

Along with financial autonomy, the functional autonomy of the PRIs and urban bodies is most essential and requires clear delineation. Although the Eleventh Schedule of the 73rd Amendment and the Twelfth Schedule of the 74th Amendment to the Constitution has listed out 29 and 18 functions, yet it should be clear as to which tier would perform and be accountable for specific levels of functioning. Such specifications have been effectively made in Karnataka and are being followed by Madhya Pradesh. Furthermore, departmental functionaries required to implement the programmes at the Panchayat level must be placed under their overall supervision and control. In some States like Gujarat, Maharashtra, Karnataka, Kerala, Tripura and West Bengal, detailed instructions have already

been issued and in several cases departmental functionaries have been placed with the Panchayats. Additionally, to reduce the scope for conflict between the bureaucracy and the democratically elected bodies, it is necessary to institutionalize the link between the two in order to facilitate harmonious functioning by formulating appropriate rules of business. Further, a holistic, people-centred approach to service delivery that leads to greater effectiveness in the achievement of wellbeing is also simultaneously required.

Finally, although it is now more than two decades since the amendments were made and there has been progress in implementing some of the mandated provisions such as conduct of elections, the concept of development planning from below has still not taken root, even in those few States in which there is relatively larger devolution of powers and provision of untied funds to local governments. Though the modern history of decentralization in India is as old as the country, efforts towards decentralization of governance picked up speed after the 73rd and 74th Amendments to the Constitution, making India one of the forerunners of decentralization among developing countries. Though the 73rd and 74th Constitutional Amendments envisage devolving 29 and 18 subjects to rural and urban local bodies, respectively, the extent of effective decentralization of functions is far lower than what is envisaged by these constitutional amendments.

However, the past two decade of decentralization efforts also coincided with a period of great fiscal stress for state governments in India. The overlap of issues of fiscal stress and lower than expected levels of decentralization raise questions of whether fiscal pressure prevented states from decentralizing functions to local government or vice versa. Other than political economy, reasons that could have motivated the ineffective devolution of the 3F's viz. 'functions', 'finances' and 'functionaries' from the control of higher level governments to local governments this study also examines the effectiveness of the process of decentralization in providing better and more cost-effective services. Although India has experienced moderate to high rates of growth in GDP over the past decade or so, the trajectory of the growth story has been rather skewed. It has remained confined to developed regions of the country.

At the same time, it is increasingly being realized that institutions are of paramount importance not only for improved service delivery but also in shaping and implementing policies that drive economic growth. Given the fact that local government institutions are directly in touch with citizens, they are best suited to meet these rising expectations of citizens. Decentralization, therefore, not only offers solutions to the problems of ineffective service delivery, but it also has the potential to provide long-term solutions for an equitable and more inclusive growth.

## Appendix 3A.1

### 29 Subjects as per eleventh schedule (Article 243G)

1. Agriculture including agricultural extension.
2. Land improvement, implementation of land reforms, land consolidation and soil conservation
3. Minor irrigation, water management and watershed development
4. Animal husbandry, dairying and poultry
5. Fisheries
6. Social forestry and farm forestry
7. Minor forest produce
8. Small-scale industries including food-processing industries
9. Khadi, village and cottage industries
10. Rural housing
11. Drinking water
12. Fuel and fodder
13. Roads, culverts, bridges, ferries, waterways and other means of communication
14. Rural electrification including distribution of electricity
15. Non-conventional energy sources
16. Poverty alleviation programmes
17. Education including primary and secondary schools
18. Technical training and vocational education
19. Audit and non-formal education
20. Libraries
21. Cultural activities
22. Markets and fairs
23. Health and sanitation including hospitals, primary health centres and dispensaries
24. Family welfare
25. Women and child development
26. Social welfare including welfare of the handicapped and mentally retarded
27. Welfare of the weaker sections and in particular of the SCs and STs
28. Public distribution system
29. Maintenance of community assets

## Appendix 3A.2

### 18 Subjects as per twelfth schedule (Article 243Y)

1. Urban planning including town planning.
2. Regulation of land use and construction of buildings.
3. Planning for economic and social development.
4. Roads and bridges.
5. Water supply for domestic, industrial and commercial purposes.
6. Public health, sanitation conservancy and solid waste management.
7. Fire services.
8. Urban forestry protection of the environment and promotion of ecological aspects.
9. Safeguarding the interests of weaker sections of society, including the handicapped and mentally retarded.
10. Slum improvement and upgradation.
11. Urban poverty alleviation.
12. Provision of urban amenities and facilities such as parks, gardens and playgrounds.
13. Promotion of cultural, educational and aesthetic aspects.
14. Burials and burial grounds; cremations, cremation grounds and electric crematoriums.
15. Cattle ponds; prevention of cruelty to animals.
16. Vital statistics including registration of births and deaths.
17. Public amenities including street lighting, parking lots, bus stops and public conveniences.
18. Regulation of slaughterhouses and tanneries.