



Decentralization And Local Government Administration: Empowerment Of Tribal Community In North-Eastern States

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Abstract

“Local self-government” possesses a “prolonged and esteemed tradition” in numerous nations. In certain instances, it is a nascent and delicate organism, while in others, it has not yet undergone rigorous examination. The apprehension over the “enhancement of local governance” is, nonetheless, not a “novel occurrence”. Its “philosophic roots” trace back to the writings of French philosopher Jean Jacques Rousseau, who, captivated by the burgeoning Swiss democracy, described “local government” as the “training ground for democratic development”. Furthermore, the “Statement of Objects and Reasons of the Constitution (73rd Amendment) Act, 1992” articulates that ‘In light of the experiences over the past forty years and the identified deficiencies, there exists a pressing necessity to enshrine specific fundamental and essential characteristics of Panchayati Raj Institutions within the Constitution to ensure certainty, continuity, and fortification.’, it is imperative to reassess the pertinent “constitutional provisions” and implement necessary modifications to achieve the authentic “Gram Swaraj envisioned by Gandhi”. Meanwhile, the necessary changes, empowerment, and equipping of the “Panchayats” should advance without delay. “North-Eastern States” possess distinct “legal frameworks” regarding “Decentralised Governance”. “Arunachal Pradesh is governed by ‘Part IX’ with certain restrictions, such as the absence of reservations for Scheduled Castes (SCs).” “6 districts of Assam, the entirety of Meghalaya, a portion of Tripura, and 2 districts of Mizoram are encompassed by the Sixth Schedule. “The review paper examines the Decentralization and Local Government Administration Empowerment of Tribal’s Community in North-Eastern States”

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(1) Introduction

“Decentralization”: “Notion of Decentralization” is a widely discussed topic in “India and other nations with a federal governance structure.” There exist various perspectives regarding “Decentralization”. The advantages of “Decentralization” surpass its disadvantages due to the intrinsic potential for “democratization within the decentralized federal system” by effectively “empowering individuals at the grassroots level”. “Deepening of democracy” constitutes both a “philosophy and an institution within post-colonial societies such as India”. “India” possesses a “protracted history of grassroots institutional functioning that has perpetuated socioeconomic disparities for generations”. “Institution of Panchayat Raj” in its “revitalized form aims to fulfill the goals of democratic decentralization to expedite socio-economic development and promote equity and social justice”. The implementation of the “Constitutional 73rd Amendment Act in 1993 and the subsequent State-wise Panchayat Raj Acts in India” highlighted “paramount importance of grassroots democratic procedures”. Diverse “local government structures for the North Eastern States have been permitted to persist during the Constitution's formulation”, as well as during “modifications to the Sixth Schedule when new States were established and throughout the Constitutional 73rd Amendment”. Consequently, it is pertinent to integrate the ideas of ‘Decentralised Governance’ into the “legal framework established for each State and region within the States (Arora, Ramesh K. and Hooja, Meenakshi (eds.), 2009)”.

(2) “Second Administrative Reforms Commission (ARC) and Expert Committee on North Eastern States”

“Seventh Report of the 2nd ARC (February 2008), titled Capacity Building for Conflict Resolution”, specifically addressed “conflicts in the North East (NE)”. In addition to addressing the “overarching theme of capacity building in administration”, the “2nd ARC” has specifically concentrated on “3 aspects of local government institutions: Autonomous District Councils in Sixth Schedule areas and village-level self-governance, as well as tribe-specific councils in Assam.”

2.1. “The Expert Committee”

“Ministry of Panchayat Raj” established a “Expert Committee led by Shri V. Ramachandran (a member of the 2nd ARC) in 2006” to thoroughly investigate the operations of “Self-governing institutions under the Sixth Schedule”. Committee submitted its report in “September 2007”. Committee's major policy issues about “self-governance are inherently encompassed within the ARC proposals”. “ARC and the Expert Committee evaluate the Panchayats (Extension to the Scheduled Areas) Act.” “PESA” is anticipated to be a landmark “legislation” that can offer insights into addressing the complex issue of the “traditional-formal interaction in the North Eastern States”.

2.2. “Comprehensive North-Eastern Perspective”

These recommendations must be evaluated within the “broader framework of governance in the North-Eastern Region (NER)”. There exists a pressing necessity to “reconcile security, tribal identity and institutions, economic development, and natural resource management”. “Numerous efforts to attain the necessary equilibrium proved fruitless due to intricate structures, overlapping jurisdictions, ad-hoc decisions, and the non-implementation of agreements (Bhargava & Subha, 1995).”

2.3. “Challenges in Village-level Governance”

“Traditional versus Formal Villages”: “Conventional self-governing village institutions” are robust across “NER, particularly in the Tribal regions”. “Formal institutions, such as the Village Council or Gram Sabha (governed by different State laws, including the Sixth Schedule)”, are notably ineffective. “Nagaland” has implemented some innovative initiatives in its “Village Council Act of 1978”. However, there exist certain “inherent anomalies”, such as the “Village Development Board (comparable to the Gram Sabha) being accountable to the traditional Village Council (which is not an elected entity) and an official serving as its chairman”. They must be addressed in accordance with the “spirit of burgeoning democratic aspirations”.

2.4. “Alteration within the Schedule VI framework”

“Schedule VI framework” differs from “State to State” as outlined below.: “Village Councils are established by the District Council in Tripura, encompassing one District Council, while in Mizoram, they are present in two Districts under the jurisdiction of three District Councils”. In “Meghalaya and Assam”, the “District Councils” have not enacted “legislation for the establishment of Village Councils”. “In Tripura, Village Councils are referred to as Village Committees, but in Manipur, they are known as Village Authorities”. For the sake of convenience, this document refers to them as “Councils”. “In Mizoram, in districts beyond the Sixth Schedule areas, Village Councils operate under state legislation.” “State Law of Nagaland establishes Village Councils, but does not establish District Councils”. “Village Councils” are led by “Traditional Chiefs”, and an additional entity has been established by the “Village Council for the execution of “Development programs”.” This entity lacks “autonomous legal status”. It does not possess the freedom anticipated from a “Local Self Government (LSG)”. The presence of several entities undermines the strength of each organization.

2.5. “Inter-Ministerial Team (IMT)”

In “Assam and Meghalaya”, “new Village Councils” have been suggested by “State Laws”. In “Nagaland and Manipur”, “elected Village Councils” is proposed in “lieu of the traditional Village Councils”. Laws formulated by “IMT”, prepared by “Government of India”, aim to enhance “Decentralized Governance” through provisions such as:

- “(i) Holding the Village Council accountable to the Gram Sabha;
- (ii) Restricting State Government's authority regarding extension and supersession of Councils;
- (iii) Ensuring reservations for women;
- (iv) Mandating regular elections for the Village Council through the State Election Commission;
- (v) Requiring women's participation as part of the quorum; and
- (vi) Establishing State Finance Commission and granting both developmental and judicial powers to the Village Councils.”

(3) “Urban Local Bodies in the Tribal Areas”

“Local government” in broad areas consists of two components. “(a) Panchayats as delineated in Part IX; and (b) Municipalities as specified in Part IX A”. However, “jurisdiction of Councils in the Sixth Schedule” is consolidated. “Unified Council framework” should persist. “Sixth Schedule Council pattern” as envisioned in “PESA and proposed by the ARC in its Report on Local Self Government”, might be implemented nationwide (Behar, Amitabh & Kumar, Yogesh, 2002).

Locations beyond “Part IX-A” of the “Constitution of India” are not mandated to possess “Municipalities”. Numerous places under “Schedule V do have Municipalities”. “2” opposing perspectives have been presented by “stakeholders”. One perspective is to establish “Urban Local Bodies (ULBs)”, which is frequently advocated by people of urbanized regions. Another perspective posits that the “Constitution of ULBs” will diminish the customary authority of “Village Councils over land”, leading to an influx of “outside people”.

3.1. “District Council and District-level Planning”

“Article 243ZD” in “Part IX A” of “Constitution” mandates establishment of a “District Planning Committee (DPC) at the district level”. Currently, “Part IX A” does not pertain to the “Scheduled and Tribal Areas”. Consequently, “Article 243ZD” pertaining to “DPCs” is inapplicable not these regions. A provision may be incorporated into the “Sixth Schedule”. Therefore, “District Council itself (or its Sub-Committee)” should likewise be designated as the “DPC” provided that “Council encompasses an entire district”. If the “Council” encompasses many districts, “DPCs” of the relevant districts should be required to operate under the direction of the “Council”. There are several regions where this is infeasible for various reasons.

3.2. “District Council and Judicial Administration”

“Administration of justice in the Tribal Areas of NER” constitutes a “constitutional responsibility of the Council”, which possesses the authority to establish “Village councils or courts”. “History of the administration of justice in Village Councils and District Councils” is “mixed”. “In states such as Manipur, the Village Authority possessed solely judicial functions, lacking any developmental responsibilities”. “In Mizoram, Village Councils execute both judicial and developmental tasks”. “Streamlined administration of justice” following the change to “Sixth Schedule” should be an “essential component of the new framework”.

“Decentralization of governance” necessitates the allocation of greater “judicial authority to Village Council instead of District Councils”. It would assist in resolving local problems. It may encompass aspects of both “traditional and formal”. “Concerned councils” may establish “customary laws” to serve as a guide for “rural communities” (Bardhan, Pranab and Mookherjee, Dilip (eds.), 2007).

3.3. “Enhancing Administrative Standards in Tribal and Scheduled Regions”

“Article 275 (1)” stipulates the monetary responsibility of “Union Government” to elevate the “administrative standards of Scheduled Areas and Tribal Areas” to align with those of the remaining “States” of our country. A “perspective plan” is required to elevate the “administrative standards in all Tribal Areas” to match those of the rest of the country within approximately “10 years”, utilizing existing area schemes as well. “Annual plans” for enhancing “administrative capacity” must be formulated by the relevant “States” in accordance with the directives given by “Ministry of Tribal Affairs, Government of India”, along with “developmental plans”.

3.4. “District Councils and State Finance Commissions (SFCs)”

Certain “States” not encompassed by “Part IX” have failed to create “SFCs”. Establishing comprehensive “State Finance Commissions in all North Eastern States” is unnecessary. “Governor” may be authorized to “constitute a high-level State Finance Committee with terms of reference”, as mentioned in “Article 243

(II)” to assess the “financial status of Panchayat Councils” and propose “decentralization of money from State”.

(4) “Administrative Reforms”

“Administrative changes” are indicated by the significant features described below.

“(i) Decreased hierarchy and streamlined systems.

(ii) Utilize new chance to enhance self-governing institutions in the North Eastern Regions for fundamental administrative reforms.

(iii) Distinctiveness of “small-sized States” should be used to create “simpler systems with diminished hierarchy, fostering increased opportunities for direct interaction between the populace and the administration.”

(5) “General Administration”

“Ramachandran Committee” has provided “state-specific” recommendations concerning “finance, accounts, and audit”. Execution of these recommendations should occur within a certain “time” limit. “Institutional” enhancements are essential for successful and efficient “government in the states of the North Eastern Region”. “Resolution of issues between State governments and Councils (District, Regional, or Tribe-specific)” is a necessary “institutional” enhancement. “7 principal institutions in the region, including MoTA, DoNER, NEC, ISC, NCST, MoPR, and NEHU”, are accountable for diverse administrative and developmental functions. “Modification of Articles 243G and 243W of the Constitution.” “Article 243G of the Constitution” stipulates that “Legislature of a State” may, through “legislation”, confer upon “Panchayats” the requisite powers and authority” to operate as “institutions of self-government” concerning the “preparation and execution of plans for economic development and social justice”, including “matters enumerated in the Eleventh Schedule”. “Article 40” mandates that “State” shall take measures to establish “Village Panchayats”. The alteration from “shall” in “Article 40” to “may” in “Article 243G” confers discretion in the “Delegation of Responsibilities and Jurisdiction to Local bodies”. Actual “Devolution to Local bodies” has been markedly inconsistent between “States” and largely unsatisfactory in the majority of “States”. “Constitutional provisions concerning the structure of Local governments” are obligatory, thereby necessitating “regular elections with the required reservations, establishment of the State Finance Commission, etc. (Joshi, R.P. (ed) 1998; Khanna, 1994).” Given that the items enumerated in the “Eleventh and Twelfth Schedules” are classified as “State subjects”.

“Ministry of Panchayat Raj” has assisted the “States in executing activity mapping” to facilitate “authentic devolution” within the existing “Constitutional framework”, which involves clearly delineating the functions to be performed at various levels (“Central or State Governments”). “3 levels of Panchayats and Urban Local Bodies”, adhering to “Principle of Subsidiary” (“Delegating functions to the lowest feasible level along with suitable devolution of finances and personnel”), have not achieved the anticipated results. Either the “Activity mapping” has not been conducted, or it has not been adhered to with “government orders”, or “Principle of Subsidiary” has not been observed, or finances and personnel have not been decentralized (“Participatory Research in Asia, 2000”). Consequently, it may be prudent to mandate “devolution of power and authority to the Local Bodies” through an appropriate preparation. Feasibility of

establishing a “Panchayat list analogous to the Union, State, or Concurrent list” may be investigated. “Rural and urban areas” constitute a “political, social, economic, and geographical continuum”. The current structure exhibits an “artificial dichotomy between rural and urban municipal governments”, resulting in numerous deficiencies. Initially, the “planning and management of socio-economic development”, together with fundamental “public services”, is artificially fragmented. Secondly, in a “rapidly urbanizing society”, the “boundaries between rural and urban territories” continue to fluctuate. “Peri-urban areas” surrounding “cities” exhibit dual traits of both “rural and urban” environments. The concept of a “democratic body” representing the “entire district” is non-existent. “District Collector” remains the emblem of authority within the “district”. Consequently, “democratic decentralization” is compromised. “Artificial division of rural and urban local governments” results in “uneven planning and implementation, suboptimal resource usage, and significant deficiencies”. “District Council” may be accountable for “comprehensive planning for the entire district” and for all “local functions, including those enumerated in the Eleventh and Twelfth Schedules”. Appropriate regulatory functions may also be delegated to “District Councils”, as these entities should be permitted to make decisions on a broad spectrum of concerns. “DPC”, consisting of officials and experts, will serve as the “professional or technical arm of the District Council”, offering comprehensive support to “planning” process; establishing “district” priorities through consensus among “stakeholders”; reviewing “plans of local bodies”; overseeing “participative planning”; “monitoring and implementing district plans”. “District Council” may choose a “Chief Executive Officer (CEO)” of “adequate seniority” to ensure the “coordination of all development departments within the district”. “Collector” may serve as “CEO of District Council”. Thus, the efficacy of “Collector's institution” is leveraged to enhance the “District Council”. Consequently, it may be prudent to change the “Constitution to establish elected District Councils” that will include representation from both “rural and urban areas (excluding metropolitan regions)” in proportion to their population.

(6) “Function of Grama Sabha”

Public participation and the accountability of “local public institutions” to the populace are “2” key factors for enhanced governance. Enhancement of the “Local Bodies” overall and “Gram Sabha” specifically would clearly help in these efforts (Robinson, Mark, 2005). Remembrance of “50 years of 3-tier Panchayats” on “October 2, 2009”, marked the period from “October 2, 2009, to October 2, 2010”, as the “Year of the Gram Sabha” to emphasize the essential role of the “Gram Sabha in self-governance and transparent, accountable operation of the Gram Panchayat, as well as to fortify the Gram Sabha itself”. “Article 243A of the Constitution” stipulates that “Gram Sabha may exercise powers and execute functions as determined by State legislation”. This provision has not yet been fully implemented, undermining the “accountability and transparency of the Panchayats” as representative bodies for the populace. In several “States”, “Gram Panchayats” are so extensive that individuals are unable to participate effectively.

The establishment of “Ward Sabhas” in extensive “Gram Panchayats” would facilitate efficient citizen engagement. “PESA” assigns a pivotal function to the “Gram Sabha” in regions designated under “Fifth Schedule”. Under “PESA”, “Gram Sabhas possess (a) Obligatory executive functions and responsibilities to approve Village Panchayat plans, identify beneficiaries for socio-economic development schemes, and issue certificates of fund utilization by the Panchayats.; (b) Right to mandatory consultations regarding land

acquisition, resettlement and rehabilitation, and mining leases for minor minerals.; (c) Authority to prevent land alienation and restore alienated land.; (d) Power to restrict the sale or consumption of Alcohol.; (e) Ability to manage village markets.; (f) Control over money lending.; and (g) Authority over institutions and functionaries across all social sectors, among others.” It may be advantageous to include “provisions for Ward Sabhas in the Constitution and to integrate the functions of the Gram Sabha into the Constitution, following the framework of the PESA Act by adding a Thirteenth Schedule (Sisodia, Yatindra Singh, 2001).”

(7) “Rotation in the Seat Reservation System”

“Constitution” of our country does not require “Rotation of seats” following a single “election cycle”. This is frequently the practice among “States”. It opposes the purpose of “reservation”. Candidates who succeed in “elections for the first time from reserved seats” do not receive sufficient opportunities to acquire experience and enhance their status through “re-election”. Frequently, “proxy candidates” are appointed to serve a time, after which the seat is “de-reserved” and becomes accessible to the prevailing influential factions and individuals. “2nd ARC” has proposed “reservation” for a minimum of “2 terms” to facilitate the development of “elected representatives” into authentic “leaders”. “This provision” already exists in “Tamil Nadu”. It is contended that this would result in a “seat” becoming accessible to a certain “group (SC, ST, OBC, Women)” after “four decades, and the right-to-recall” should rectify the deficiencies of “1 election cycle”. However, the advantageous position would favour “rotation solely after two electoral cycles”. “Article 243D” stipulates that seats and positions of “Chairpersons reserved for Scheduled Castes, Scheduled Tribes, and Other Backward Classes” shall be allocated by “rotation”, regardless of their numbers in a “Panchayat or Ward”. The distribution of the people within these groups differs among the “Panchayats”. This may result in a scenario where a proportional number of “seats” are not allocated for these categories in “Panchayats or Wards”, despite their significant representation, while an excessive number of “seats” are saved for them in “Panchayats” where their population may be minimal or non-existent. This undermines the essence of “reservation” and exacerbates “animosity”, as the approach to reservation is perceived as irrational. Consequently, it may be advantageous to “reserve seats and positions of Chairpersons” for “two consecutive terms” for a specific category, with “Reservation applicable solely in those territorial regions (Panchayats and District Councils)”, where the population of that category constitutes “5 percent or more, by amending Article 243D (Widmalm, Sten, 2008)”.

“Aligning the duration of the SFCs with that of the CFC”: “Article 243I of Constitution” mandates that “Governor of a State shall establish a State Finance Commission (SFC)” at the conclusion of every “five-year period” to assess “financial status of Panchayats” and to provide recommendations concerning the “Principles for the allocation and assignment of taxes, duties, and grants-in-aid to Panchayats from the State's Consolidated Fund”.

(8) Conclusion:

- “Legislative Councils” are essential entities that empower “Local Bodies” to influence the development of “State laws and safeguard their institutional interests”.
- “Legislative Councils” can provide an “organic connection between State Government and Local Bodies”.
- It would help in addressing the inadequacy in the progression of “powers and functions” assigned to “Local Bodies through legislative discussions”.
- “Clause 3 of Article 171 (2) of the Constitution” specifies “Election of just 1 / 3 of the members of the Legislative Councils by the electorate of Local Bodies”.
- “Remaining 2/3 are to be elected from among university graduates, educators, and individuals selected by Members of the Legislative Assembly, among others”.
- “Graduates and Teachers constituencies” may have initially been envisioned as a collective of educated individuals during a period of significant illiteracy. Given the elevated levels of literacy, there is minimal rationale for offering distinct representation for “Graduates and Teachers”.
- “Legislative Councils” require reformation to enhance representation for “Local Bodies”. Hence, this would strengthen the “democratic process”. “Law” may be formed under “Article 171(2)” to specify that “2 / 3 of the members of the Legislative Councils shall be elected from the elected representatives of the Local Bodies”.

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