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PRI 

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**Gujarat NGO Action Plan
for
Strengthening Panchayati Raj Institutions**

With the 73rd Constitutional Amendment, Panchayati Raj is recognised as a legitimate third time governing institution. This ensures women dalit and other backward caste and tribals participation and people control over their own governance, rather than dependence on for away governing structures and institutions. In order to revitalise the components of participation and governance in the new Act we have been involved in a process named "NGO initiative on Strengthening Panchayati Raj Institutions (PRIs) since the past two years. Although some people are skeptical about the efficacy of PRIs in bringing about any change at the grass root level. But we feel that the spirit behind PRIs are "participatory planning", "local self-governance", and "women's and Dalit's empowerment". These features can be attained by actively associating with PRIs rather than just speculating.

A joint effort has been initiated with the grass roots groups (NGOs) and concerned individuals to strengthen PRIs. The two main strategies articulated so far are:

1. Identification of loopholes in the State Panchayat Act and to make necessary amendments.
2. Developing a model of strengthening PRIs by which can be replicated.

These two major action plans have been emerged subsequent to a series of consultations with NGO functionaries and discussion with new elected Panchayat leaders at their place of work.

This report spells out the above two important strategies. The first part of the report highlights the recommendations to make the act more people centered. The second part of the report talks of the action plan as jointly decided by twenty five grass root groups of Gujarat. We hope that our joint effort will enable us to develop a guide line to strengthening PRIs. Create condition and for the practice of the key principles. We look forward to your suggestions to improve our efforts.

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January 1996

PART I

GUJARAT PANCHAYATI RAJ ACT: AREAS REQUIRING AMENDMENT

After examining the Gujarat Panchayati Raj Act in a workshop held during April 24-26, 1995 at Ahmedabad and subsequent discussions held by NGO Working Committee on Strengthening Panchayati Raj during September 19 and September 30, 1995 some amendments have been recommended. It is hoped that these recommendations will serve the following purposes :

1. To remove statutory hurdles in the growth of real self-governance.
2. To prevent centralization of powers at higher levels of hierarchy.
3. To resist bureaucratization of Panchayat administration.
4. To tackle possible inadequacies of resources financial, administrative etc.

Without highlighting the Strength of Gujarat Panchayati Raj Act (already appeared in our previous report) the areas of amendment have been listed below.

Nature and size of a Village Panchayat.

1. The maximum population for constituting a Village Panchayat should be reduced from 15000. This makes the total members elected to 31 which is very large for a Panchayat. Such a large size can create problems to conduct effective consultation. The actual size should be decided on the basis of local conditions like village a unit.
2. If population of SC is less than 7% there is no provision for a reserved seat in Panchayat in the present Act. There should be at least one reserved seat for Harijan, even if the population size is less than 7%.
3. While deciding the boundaries of group gram panchayats it should be done in a manner that two hamlets of one village does not fall under two separate Panchayats. In addition to this, one panchayat per village should be ideally followed. It will enhance village sovereignty.
4. At present, the Panchayat has an even number of members, (eight i.e. consisting of 7 members and one Sarpanch) Instead of this, number should be odd (6 members and one Sarpanch). In the Rajasthan Act, there is a provision of even members.
5. As per the report of the Bhuria Committee the tribal areas are provided with a special autonomy. The present Act has not taken account of this. Hence for the tribal area, necessary constitutional amendment needs to be carried out.

Constitution of Gram Panchayat

6. To make economic resources accessible to the Panchayats, the Government of Gujarat should accord legal recognition to the Finance Board formed recently under an administrative order.
7. Gram Panchayat should be treated as an executive arm of Gram Sabha.

Gram Sabha

Without strengthening the Gram Sabha, self-governance cannot be achieved. Hence the following statutory provisions are suggested to be incorporated in the present Act.

8. A village panchayat must place its budget before the Gram Sabha for its approval.

9. Every Village Panchayat must act upon the suggestions made by gram sabha in respect of the reports and statements placed before it by the Village Panchayat.

10. Every Village Panchayat keep the Gram Sabha informed about administrative and revenue matters and about the progress of development activities.

11. There should be as many meetings of Gram Sabha every year as are required. to have proper review of its development plans instead of two as at present. The quorum of the Gram Sabha should include the provision of present of at least one third women.

Motion of NO-Confidence Against Sarpanch

12. There is a provision in Section 56 of the Act which provides that if a motion of 'no-confidence' is carried by a majority of not less than two-thirds of the total .number of the members of the Panchayat, the sarpanch shall cease to hold office. Since the sarpanch is elected by the entire Gram Sabha, it is suggested that the Gram Sabha also should have the power to move a no-confidence motion.

Constitution of Taluka and District Panchayat

13. In the present Act there is no organic link between the Village Panchayat and the Taluka Panchayat as well as between the Taluka Panchayat and the District Panchayat. It is suggested that twenty percent of total number of Sarpanches should become Associate Members of taluka Panchayat every year by rotation. This will ensure participation of all the sarpanches of the taluka in the Taluka Panchayat during its term of five years.

14. The status of MLAs as permanent invitees in the Taluka Panchayat and District Panchayat meetings should be dispensed with. It will make unnecessarily centralization of power.

Disqualification of Members

15. Section 30 of the Act enumerates various offences which will disqualify a person from becoming a member of a Panchayat or for continuing as such. In the context of the present-day, other offences such as those committed under the anti-dowry Act and the anti-smuggling Act should be added for the disqualification.

Nyay Panchayat

16. It is suggested that the Nyay Panchayat must be given a place in the new Act in a modified form with due representation to women and to SC/ST and the backward classes. The recommendations of the Zinabhai Darji Committee can be taken as a guideline.

Functions of PRIs

17. The infrastructure development works are carried out by contractors at the District, Taluka and Gram Panchayats. Instead of this, such work should be implemented by co-operatives, village institutions, NGOs as far as possible.

Personnel

18. The practice of deputing officers of IAS cadre, Class I and Class II gazette officers from the State service to the PRIs must be dispensed with as their loyalty will primarily be to the State government not to the Panchayats.

19. In order to bring a little more flexibility into the process of recruitment, it is suggested that a Village Panchayat should be free to select and recruit servants belonging to the local cadre without the intervention of the two selection bodies, namely Gujarat Panchayat Service Selection Board at the state level and District Panchayat Service Selection Committee for each district. This will bring more autonomous functioning.

Financial Resources

20. A comprehensive taxation system must be designed with substantial autonomy to the Panchayats. But there should be clarity of powers for levying tax at the different hierarchical levels.

21. At present the distribution of revenue collection is made in a complex manner. This collection may be distributed among the three levels of Panchayats equally, in accordance to their needs.

22. The present Act should be amended to include a provision comparable to section 200(1) vide Item No. (XI) so as to empower Taluka and District Panchayats to levy "any other prescribed tax which the State Legislation has under the constitution power to impose in the state".

23. The present Act should be amended so as, to empower the State Government to set apart appropriate amount to establish Taluka and District Encouragement Fund from the Consolidated Fund of the State. This will be similar to the District Village Encouragement Fund maintained under Section 222.

Planning

24. The Eleventh Schedule and the three schedules (Schedule I for Village Panchayat, Schedule II for Taluka Panchayat and Schedule III for District Panchayat) need to be completely revamped. In the regional context of Gujarat, and in the context of the overall legislative framework what functions the three Panchayats can actually perform has to be examined and on the basis of that, new schedules need to be prepared.

25. Keeping 73rd constitutional amendment in mind, a Planning Committee is constituted in Chapter-7 of Panchayat Act-1993. But no structure or rules have been framed. The provision for planning needs to be made immediately.

26. Instead of allotting money for developmental works to MLAs and MPs money should be allotted to Panchayats through District Planning committee.

Actions Against Office-Bearers

27. Powers to take action against office-bearers of the PRIs in appropriate cases must be entrusted to an independent, impartial body. Zinabhai Darji committee has recommended to set up a Divisional Tribunal under the Chairmanship of a Judicial Officer in the rank of a District and Sessions Judge with two more members possessing administrative experience. Such a tribunal should be empowered by Law for suspension and removal of Sarpanch, up-sarpanch, Taluka Panchayat President and Vice-President.

28. The removal of office bearers of Panchayats should be made not by registering a complaint in police station but after the charge sheet is issued and the copy sent to the court.

Dissolution of PRIs

29. Power to dissolve or to supersede any Panchayat of any class in certain circumstances, given to the State Government under Section 253 of the Act, is liable to be misused or misunderstood. It is therefore suggested that the State Level Tribunal as recommended in the foregoing paragraph should have such powers.

Powers of State Government

30. The sub-section of 108(4) should be so amended that the State Government before resumption of any land in the Village Panchayat area must give opportunity to the Village Panchayat and other related superior panchayats to argue out their case for or against such resumption of land and only after taking into consideration their views the State Government may take decision.

31. The Law should be so amended that the State Government before taking decision on the acquisition of land for industrial or other purposes within a Village Panchayat area should give prior notice to the Village Panchayat and other related Panchayati Raj Institutions and obtain their consent.

State Council for Panchayats

32. Under Section 266 a State Council for Panchayat is constituted under the Chairmanship of Minister in charge of Panchayat Administration. The main function of this body is to advise the State Government on all general questions pertaining to Panchayats. Non-Government Organisations (NGOs) are today playing a vital role in rural development in general and particularly in the welfare and upliftment of the weaker sections. They should also be represented in the council.

Committees

33. Women are not given reservation in various Committees of Panchayat. As a result, in spite of women getting elected, they are not being included in committees. There should be reservation for women members in the Committees well as in the seats of Chairpersons of various committees.

Election Process (Panchayat election held in June 1995)

34. There was a clear provision in Gujarat Panchayat rules that one candidate can fill up maximum four nomination forms but during Panchayat election held in June, one form per candidate was available with great difficulty. Due to cancellation of forms, many candidates were deprived of their rights. Nomination form in adequate numbers should be made available in the village Panchayat a month before the declaration of the election.

35. Information about ward formation in Panchayats were not available to the villagers till the day of filling up nomination forms. In spite of clear provision in rules for availability of this information in Panchayats, it was hardly implemented. In Dholka taluka, ward formation of some villages were changed on the eve of elections and hence candidates did not know who are their voters till the day of the election. Information on ward formation, announcement of polling officer should be made available in the Panchayat at least before a month of election.

36. No reasons are given for the cancellation of nomination forms. In case of cancellation, on the verification day itself, candidates should be informed in writing and should be informed through notice board of Gram Panchayat. It will be an educational exercise and will empower common people to contest elections. There should be a provision to appeal for challenging the decision of cancellation of nomination form to an officer.

37. Due to Government announcement of prizes to uncontested Panchayats, the dominant caste and people having a hold over the village man forcibly make candidates withdraw from elections. When the purpose of the 73rd amendment is to bring democratic traditions to village level with dalit and women's participations who are weaker, such a prize provision defeats the purpose.

Women's participation

38. There is no provision to facilitate women's active involvement in the Panchayati Raj. Women candidates may be provided escort service, child care allowance during travel. Besides this a lot for the capacity building of women functionaries separate women training centres may be developed. For better informal interaction taluka, district and state level women panchayat member associations may be formed.

Some Errors

The present Act contains certain errors which have crept in while transferring from the text of the old Act.

39 In sub-section 2 of Section 61 of the new Act there is a mention of holding a meeting for the election of a Sarpanch and Up-sarpanch in the event of a vacancy in these offices. The word Sarpanch has erroneously entered here unlike the provision of a corresponding section 53 (2) of the Old Act where quite correctly only Up-Sarpanch is mentioned; because a Sarpanch is not elected in the meeting of a Village Panchayat, but by the voters of the entire village.

PART II

ACTION PLAN FOR STRENGTHENING PANCHAYATI RAJ INSTITUTIONS (PRIs)

Consultations with NGOs in April (24-26) and in September (19 and 30) resulted in bringing forth various field level issues and experiences related to preparing people for elections. This paved the way for a joint action plan by the participating NGOs for strengthening panchayat functionaries.

Field Level Experiences

The field level expertise shows two major concerns with regard to Panchayats. One, although the Constitutional mandate highlights local governance with representation of women and dalits and planning at village level people, still Panchayats are looked as implementing bodies. Two, there was definitely a higher enthusiasm for Panchayats before elections which seems to have lessened after the election.

Women have been elected among large numbers. It is difficult to state the nature of their backgrounds and how they got elected. But as reported by the NGOs, most of the women in their area are elected in place of their previously elected relatives or are elected through pressures from their family members in the reserved seats. However, there are examples of women contesting on their own will to do some good for the village.

Most of the elected Gram Panchayat members from Poshina area (a tribal area) of Sabarkantha District who are women are not known to others. Some women did not know that they were elected. Selection of women members was decided by other members.

A study done by ASAG showed that among the elected members of Junagadh and Valsad districts, 95% of women were elected for the first time out of which 22% women were from the family of former Sarpanchs. In Valsad district out of elected women 50% women had studied more than S.S.C. whereas, in Junagadh 90% women were illiterate. From age point of view, average age in Valsad was 21-30 years whereas in Junagadh it was above 40 years.

In areas where there were majority of Dalits, the Sarpanch seat has gone to the them, but the upper caste has managed to capture the up-sarpanch seat. In places like Bhavangarh of Idar the Darbar caste up-sarpanch exercises control over the dalit majority Gram Panchayat.

Difficulties faced by NGOs in promoting people's participation

NGOs have been involved in preparing people especially women to stand for elections. Such efforts were more of isolated initiatives. The main problem of absence of any consolidated effort are:

- Panchayats are treated as grass root political institutions. Political parties were actively involved in the election process. In this context the involvement of voluntary agencies are looked as political activities rather than promotion of participation of women in grass roots governance.
- NGOs promoting independent women as panchayat leaders are treated as rivals by political parties.
- Pressure is mounted on women by family members and parties to contest election against certain political banner. It was difficult for NGOs to promote women to contest election on behalf of village women sangathans.
- Government officials did not cooperate NGOs to help filing nominations of women and dalits.

After the election there is no clarity how to strengthen the new functionaries so that they can execute their functions effectively. the major bottlenecks in the process are:

- There is no clear understanding of the background of the new elected functionaries and problems being faced by them in doing their work.
- Though the voluntary agencies are keen to strengthen Panchayats to promote self-governance, we ourselves are not clearer about Panchayat functioning.
- There is no forum to provide functional information and training to new elected members about their roles, systems and procedures and skills in conducting meetings, preparation of plans, budgets and to link up with government.

Based on the nature of constraints faced in the process of strengthening the PRIS the following Action Plan is finalised.

1. To provide information support on the topics where the Panchayat functionaries having facing difficulties particularly in relation to legal and procedural aspects that arise in the day to day functioning, The collaborating group of NGOs, will periodically interact with selected identified Panchayats and try to know the difficulties. If they do not have answer to those problems they will write to Shri Rajesh Bhatt-ASAG, who in turn will seeks answers from a panel of experts and convey these answers to the NGOs.

2. A column on Panchayati raj in daily news paper will be initiated covering the answer to the questions of panchayat members. It will cater to a larger audience.

3. A conference at Gujarat level can .be convened for elected women functionaries. For this, Sejalben from ANANDI along with other grass roots agencies like SANGATH- Modasa, MAHITI-Dholera will conduct regional meetings and then organise the state level conference. The purpose of this conference is to rebuild the confidence of the women elected representatives.

4. It was decided to carry out a profile study about elected members of Panchayat in Gujarat and what are their learning requirements. This activity will be taken up by Unnati. Unnati will prepare a format for profile study and will send to all institutions for necessary suggestions. It was decided to finalize this format after field test and half-a-day's discussion with the staff who have conducted the field test. This profile study will .be a bench marks on state of capacity of the PRIs.

5. To develop capacity of NGO staff members for effective interaction with Panchayat functionaries Unnati will arrange one training programme. In this programme, a team of NGO staff interested in Panchayat activities will participate. It was decided to arrange this programme in January 1996.

6. To advocate for the inclusion of the suggested amendment in the Panchayat Act and rules the working group will regularly meet and give suggestions to government.

PROPOSED INITIATIVE OF COLLABORATING INSTITUTIONS IN STRENGTHENING PRIs

We clearly feel that a select small group of NCOs cannot reach out to a large number of Panchayats with our present level of involvement in our ongoing work. However, we want to demonstrate our method of involvement on strengthening PRIs by directly working with selected panchayats in our working area. We are more concerned about developing model learning intervention mechanism which can make an impact in strengthening the capacities of PR! representatives so that they can work towards developing an ideal self-governing institution. The indicators of measuring the impact of our joint interventions are:

1. Help Build Active and Effective Member
 - Regular attendance in Panchayat meetings and Gram Sabha meetings.
 - Involvement in preparation of the agenda
 - Presentation of village practical and strategic issues without fear
 - Attending meeting with prior preparation
2. Skill to Conduct effective Gram Sabha
 - organising regular Gram Sabha
 - Mobilising people to participate
 - Attendance of Dalits, OBC and women (%)
 - Issues discussed
3. Developing people centered Micro Planning
 - What kind of development issues are taken into consideration
 - Involvement of people and Gram Sabha in the preparation of annual plan
 - People's participation in implementation
 - Transparency in implementation (Social Audit)
4. Effective functioning of Social Justice Committee
 - No. of committees in the Panchayat
 - Whether women, dalit and OBCs are involved in the committees
 - What kind of issues the Social Justice Committee has taken up

In the first year the effort will be towards building effective members of Panchayats. 120 Panchayats in 15 areas are selected to take up the model strengthening exercise. After one year of our involvement an impact study will be conducted and the process of involvement will be documented. We hope our initiative will help in creating an alternate, effective and cost-effective learning methodology on strengthening PRIs.

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