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Functioning of Gram Sabhas in Scheduled Areas:
Koraput District, Orissa

By

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Introduction

The Orissa act 15 of 1997 has been enacted on 21st December 1997 to incorporate the provisions the Central Act of 40 applicable to Schedule V areas of the country. The central act of "The Provision of the Panchayats (Extension to the Scheduled Areas) Act 1996, was adopted in Orissa, by amending the Orissa Gram Panchayats Act, 1964, Orissa Panchayat Samiti Act, 1959, and Orissa Zilla Parishad Act, 1961 in December 1997. However, the provisions are yet to come into force, as already the elections to these bodies took place in February 1997 with the elected members in office with the term of five years. The Panchayati Raj structure as it exists today in scheduled areas is on the without the amendments adopted in the Panchayat Acts in the state.

Main Features of the Scheduled Areas Act:

One of the essential features of the acts applicable to scheduled area is that of constitution and role of Gram Sabha. Under section 3 of the Orissa Gram Panchayats (amendment) Act, 1997, a Grama shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising of community or communities and managing its affairs in accordance with tradition and customs. For each Grama there will be Gram Sabha or otherwise known Gram Sasan consist of persons whose names are included in the electoral rolls for the Panchayats at the village level. Interestingly, like in case of West Bengal and Kerala, the main act provides for constitution of Palli Sabha in each village, which will meet annually in February. It has power to recommend matters to Gram Panchayat regarding the development works and programmes that may be taken up during the ensuing year and the annual budget submitted by the Gram Panchayat.

Under section 5, Gram Sasan shall have the power to:

- a) Approve the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Gram Panchayat;
- b) Identify or select persons as beneficiaries under the poverty alleviation or similar other programmes

Provided that every Gram Panchayat shall be required to obtain from the Gram Sasan a certificate of utilisation of funds by that Panchayat for the plans, programmes and projects referred to in above mentioned clauses a) and (b);

- c) Consider and approve the annual budget of the Grama Panchayat including the supplementary or revised budget;
- d) Consider levy of all taxes, rates, rents and fees and enhancement of rates thereof;
- e) Organise community service drawing and implementation of agricultural production plans;
- f) Consider all such matter as may be referred to it by Gram Panchayat for its decision;
- g) Call for such information and data from the Gram Panchayat as it may consider necessary; and
- h) Consider such other matters as may be prescribed.

Under section 5(ii), in the Scheduled Areas, the Gram Sasan shall be competent to safeguard and preserve tradition and customs of the people, their cultural identity, community resources and customary mode of dispute resolution consistent with relevant laws in force and in harmony with basic tenets of the Constitution and human rights.

Under amended section of 44, notwithstanding anything contained in any other law, in the Scheduled Areas, subjected to the control and supervision of the Gram Sasan, the Grama Panchayat shall

exercise with its local limits, such powers and perform such functions in such manner and to such extent, as may be prescribed in respect of the following matters:

- a) enforcement or regulation or restriction of the sale and consumption of any intoxicants;
- b) the ownership of minor forest produce;
- c) prevention of alienation of land and restoration of any unlawfully alienated land of a Scheduled Tribe;
 - and
- d) Control over money lending to the Scheduled Tribes.

Gram Sabha also has control and supervision over Gram Panchayat, under section 59, on its power to manage village markets.

Annual budget of a Gram Panchayat needs the approval of the Gram Sasan under section 98. On approval of the annual budget (subsection-3) or as the case may be, the Supplementary budget or revised budget, the Gram Panchayat shall forward the same to the sub-divisional Panchayat Officer appointed by the Director, who shall be competent to examine the budget and shall furnish his comments to the Gram Panchayat which shall be placed before the Gram Sasan for consideration and finalisation with or without any modification as may be necessary. Further the Grama Panchayat shall forward a copy of the budget so finalised under sub-section {3} to the Panchayati Samiti as well as the Zilla Parishad for compilation at their level.

There are other provisions in the amended act, which might have bearing on the functioning of Gram Sabha. Under section 10, whatever composition of a particular Gram Panchayat, not less than one half of the total number of seats to be filled by direct election shall be reserved for Scheduled Tribes. Under subsection 5, in Scheduled Areas all the offices of Sarpanches in Grama Panchayats shall be reserved for the Scheduled Tribes. Similar provisions have been incorporated at Panchayat Samiti and Zilla Parishad levels.

Under section 3 notwithstanding anything to the contrary in this Act or in any other law for the time being in force, in the Schedule Areas: -

- (a) no prospecting license or mining lease for minor minerals or concession for the exploitation of minor minerals by auction shall be granted under any law or after the commencement of the Orissa Zilla Parishad (Amendment) Act, 1997, except with the prior recommendation of the Parishad; and
- (b) no acquisition of land for development projects and for resettling or rehabilitating persons affected by such projects shall be made under any law without prior consultation with the Parishad; and
- (c) The Parishad shall plan and manage the minor water bodies.

Under section 205, notwithstanding anything to the contrary in this Act, in the Scheduled Areas, the Samaj shall, in consultation with the Gram Sasan, be competent: -

- (i) to exercise control and supervise, the nature and extend of which shall be such as may be prescribed, over institutions and functionaries of various social sectors in relation to the programmes and measures as the Government may by notification. specify and
- (ii) To prepare the local plans including tribal sub-plans for the area and to exercise control over the resources for such plans."

There are variations in the Scheduled Areas Act in Orissa while comparing the Central act of 40. The Orissa Act under the power of Gram Sabha. that customary mode of dispute resolution should be consistent with the "relevant Jaws in force and in harmony with the tenets of Constitution and human rights". As far acquisition of land for development of projects and for resettling or rehabilitation of persons affected by such projects in Scheduled areas is concerned, the Orissa amendment act has

assigned the power to be consulted in the matter to Zilla Parishad. There is no role assigned to Gram Sabha in this matter. In case of not assigning that power to Gram Sabha means that it may assign it at appropriate level and for Orissa it means it is Zilla Parishad. Similarly, Zilla Parishad is also assigned the recommendation power of granting of prospecting license of Mining Lease for Minor minerals and also the management of Water bodies.

According to the stipulation of the Central Act of 40, while endowing the Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, a state legislature shall ensure that the Panchayats at the appropriate level and the Gram Sabha are endowed specifically with:

- a) enforcement or regulation or restriction of the sale and consumption of any intoxicants;
- b) the ownership of minor forest produce;
- c) prevention of alienation of land and restoration of any unlawfully alienated land of a Scheduled Tribe; and
- d) the power to manage village markets
- e) Control over money lending to the Scheduled Tribes.
- f) Power to exercise control over institutions and functionaries at all social sectors
- g) The power to control over local plans and resources for plans including tribal-sub-plan

The Orissa act reads as follows: notwithstanding anything contained in any other law in the Scheduled Area subject to the control and supervision of Gram Sasan, the GP shall exercise within its local limits, such powers and perform such functions in such manner and to such extent as may be prescribed in respect of the matters" such as enforcement or regulation or restriction of the sale and consumption of any intoxicants; the ownership of minor forest produce; prevention of alienation of land and restoration of any unlawfully alienation of land of a Scheduled Tribe; the power to manage village markets; Control over money lending to the Scheduled Tribes. The power to exercise control over institutions and functionaries at all social sectors and the power to control over local plans and resources for plans including tribal-sub-plan is entrusted with Panchayat Samiti.

The provisions of the Orissa Amendment Act could not become effective unless the concerned subject laws are changed. The Orissa Scheduled Areas Transfer of Immovable property (by STs) regulation Act 1956 and The Orissa Land Reforms Act 1960 as amended prohibits transfer of ST land in Scheduled Areas. These acts, however, are yet to be amended to empower Panchayats and Gram Sabha in this matter.

However, Orissa has issued a circular no 1084(30) dated 21-1-99 entitled "Responsibilities and Duties of Gram Sabha (Amendment of PR rules in Tribal areas), The notification is in confirmation of the powers and functions assigned by the Orissa Amendment act of 15.

Functioning or Gram Sabha at field level

Given the above-mentioned background of the provisions of Panchayati Raj Act, a study was conducted in Koraput district, a Scheduled Area in Orissa, to understand the functioning of Gram Sabha. For this purpose, two Gram Panchayats in Borigumma block which is supposed to be biggest Panchayat Samiti in the district having 29 Gram Panchayats and two Gram Panchayats in Dasmantpur blocks which is one of the backward blocks in Koraput district, were selected.

A brief background about the district and blocks is useful at this stage. The district is part of well-known KBK districts that known for their backwardness. The district has been declared as a scheduled area under the Presidential Scheduled Areas order, 1950. The geographical area of the district is 8379 sq.km, It has two revenue sub-divisions, 7 Tashils, 14 CD blocks, one Municipality, 197 Gram Panchayats and 1985 revenue villages. The net cultivated area is 3,18,000 Ha and out of which Paddy is major crop followed by millets. During the last eight years, the recorded rainfall has come down to 1390 mm from 1521 mm. It has been confirmed during the course of the field work by various

respondents. It has been generally observed that the tree cover has come down drastically in this decade. The percentage of ST population of the district is 51 percent and the percentage of SC population is 13 percent. Though the percentage of ST population is more than half of the total population, the literacy rate of 8 percent among STs is one of the lowest percentages compared to literacy rates of STs in other districts.

The total population of the Borigumma block is 1, 13 983 persons and out of which Scheduled Tribes constitute 51 percent and SCs 16 percent. The literacy rate is only 18 percent. Geographically, as one travels through the block. It is mostly plains endowed with many small rivers and streams and dotted with hills and patches of forests and trees. It consists of 149 inhabited villages and comprising of 29 Gram Panchayats, the highest compared to other blocks in the district and has an area of 606 kms. Out Of 29 Sarpanches, 15 are from ST, 3 SCs and others 8 and the women members are 10 fulfilling one-third representation. There are 8 minor irrigation projects and 1 Upper Koilab irrigation project irrigating 1525 Ha and 10,797 Ha respectively. Mostly paddy and millets are grown. For our study purpose, two Gram Panchayats - Bodigaum and Kumuli were selected. While in Bodigaum, a ST is the Sarpanch of the GP and it is a young Brahmin youth is the Sarpanch.

The total population of Dasmantpur block-one of the most backward blocks, has a population of 64709 with STs constituting 56 percent and SCs 12 percent. The literacy rate is 12 percent. Among STs, Kandha, Paraja, Gadaba tribes are predominant. The block is basically hilly area with small stream irrigating paddy, particularly Dangar varieties and Millets. Dangar land means slope lands cleared for cultivation for few years and in subsequent years the vegetation is allowed to grow for repeating the same process. Between the hills. where the streams and draining water flows paddy is grown and it is facilitated by creation of small bonds across these streams. In fact, Minor Irrigation project is the preferred infrastructure in the block. The land under cultivation is 26,626 Ha, Dangar lands are 9548 ha and the area under forest is 4890 ha. Unlike the other block, the road network and even the condition of the roads is poor. It was told malaria is endemic in the block. The number of Gram Panchayat Sarpanches is 15 and out of which STs is 8, SCs 2 and OC 5 and among them women Sarpanches are 4. For the study purpose, two village panchayats namely Chikambo and Dasmantpur were selected and has ST and OC as Sarpanch respectively.

Under the stipulations of the central guidance, four Gram Sabhas are to be conducted each year. Accordingly, Gram Sabhas were held in January and May 1999 in the blocks. In addition, there should be two meetings of gram Sabha that is one February and another in June to be conducted each year. At the time of the visit, the Gram Sabha meeting scheduled to take place in June got postponed due to by-election in the constituency. It was supposed to be held in the second half of July 1999.

Palli Sabha like Gram Sansad in West Bengal and Ward Sabha in Kerala, meets annually in February and also meets at other times. Most of the respondents said that Palli Sabha are better organised than Gram Sabha as being small gathering and the points are better articulated. While perusing the maps prepared by the local persons of all the GPs visited show that in Borigumma block, it is easy to attend Gram Sabhas because of less distance to GP headquarters and better road facilities. In Dasmampur block, the villages are scattered and more than that for some villages there is no road links and the existing ones are not all-weather roads and during rainy seasons for some days some villages get cut-off from the GP because gushing streams.

In all Gram Panchayats visited, attendance register and agenda and minute books are well maintained. Most of the signatures are thump impressions. The copies of the attendance register are sent to DRDA and Panchayat Samiti in the same day of Gram Sabha presumably to avoid entries of subsequent days. Some of the Sarpanches were expressing the problem of taking attendance of Gram Sabha members at such a short time before starting of proceedings of Gram Sabha. The attendance register is verified and signed by the official assigned for the purpose of monitoring the conduct of Gram Sabha. In all the GPs visited, there is an attendance of stipulated one-tenth quorum. However, in most of the GPs, the response is not overwhelming.

Further, in most of the GPs visited, there is practical problem of space in calling for a meeting in all the villages where voters are around thousand persons. All the times, Gram Sabha is called in front of the Panchayat Office and there is an absence of big public place.

The timing of Gram Sabhas in all the GPs is tentatively between 10 AM to 5 PM. and Palli Sabha is between 11 AM to 2 PM. The timing seems to be appropriate given the nature of terrain and lack of bus and road facilities which makes the night travel difficult if Gram Sabha is called in tile evening. Only problem would be if it is being organised in a busy agricultural season which would make an impact on attendance.

No single factor dominates the attendance or lack of attendance to any Gram Sabha. It ranges from indifference to their interest to include their name in the beneficiary list. The Jack of attendance is also attributed to the feeling that there is no meaning in attending Gram Sabha, as their earlier demands are yet to see the light of the day. This and other issues get articulated vocally more in Palli Sabha than in Gram Sabha. As one of the respondents put it that generally people are afraid and hesitant to talk in Gram Sabha than in Palli Sabha. Some respondents in Chikambo Panchayat, have the feeling that having articulated their demands in Palli Sabha is sufficient enough and it is the duty of the warn member to articulate their demands in Gram Sabha.

It was noticed in all the offices of Gram Panchayats, the list of beneficiaries of IRDP and IAY and the list of development schemes being implemented for the current year and their details are prominently displayed. The idea is to make the process of functioning of GP more transparent. There are certain agenda items fixed for each Gram Sabha meetings conducted in different days of the year. However, certain demands and items dominate the proceedings of the Gram Sasan. In Dasmanrpur block, the most backward area, the most articulated demand in Gram or Palli Sabha meetings is **Community Irrigation Projects (CIP)**. On the other hand, in Borigumma block, it is the **individual oriented schemes** like IRDP and IAY, which dominate the scene of Gram Sabha. Among the individual schemes, petty trade loans are the most sought after and among them the vegetable vending seems to be priority. It is interesting to notice that while passing through the market of Borigumma that almost all the vegetable vendors are women. It was told that mostly women sustain the family as mostly men have drinking habits and waste money on this habit.

In Kumuli Panchayat in Borigumma block, police had to be called to conduct the Gram Sabha meeting and the fight was between two groups belonging to Brahmin caste from which the young Sarpanch hails from. In case of Dasmampur block, there were no cases of police intervention. However, it was told that conflicts do occur in Gram Sabhas to undermine the position of Sarpanch. Sometimes the conflicts arise out of party affiliation and this phenomenon is more visible in Borigumma than in Dasmantpur. In Borigumma. the conflict is between Congress and Janata Dal.

Concluding Remarks

The agenda of the meetings of Gram Sabha may be fixed by the government, however, there is reflection of local needs gelling articulated as evident from the minutes of the meetings. While Dasmantpur block prefers Community Irrigation Projects, Borigumma block prefers Individual Oriented Schemes like IRDP and IAY. There is sense of frustration among some respondents that the demands which were articulated in the earlier meetings are yet to be fulfilled. This results in sense of dejection and questioning the meaningfulness of Gram Sabha meetings. However, the fell needs of the area may better articulate in these meetings. The process of participation through Gram Sabha may be difficult but desirable. For this there is constant need for making people about the importance of Gram Sabha through electronic media like radio and TV which have wider reach of audience.

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Annexure-I Orrisa Act of 1997

Amendment of section 6. 5. In section 6 of the principal Act, -

- (a) In sub-section (3); after the proviso to clause (a), the following proviso shall be inserted; namely: -
"Provided further that in the Scheduled Areas; not less than one-half of the total number of seats to be filled by such direct election shall be reserved for the Schedule Tribes"; and
(b) after sub-section (c) the following sub-section shall be inserted, namely: -

"(6) Notwithstanding anything contained in this section, the Government nominate to Parishad in the Scheduled Areas persons belonging to such Scheduled Tribes as have no representation in the Parishad:

Amendment of section 8. 6. In section 8 of the principal Act, in sub-section (2) the following provision shall be added to clause (a) namely: - "Provided that in the Scheduled Areas, officers of president of all the Parishad shall be reserved for the Schedule Tribes".

Amendment of section 16. in sub-section (2), after the proviso to clause

- (a) the following proviso shall be inserted, namely: -

" Provided further that in the Scheduled Areas, not less than one-half of the total number of seats to be filled by such direct election shall be reserved for the Scheduled Tribes ",

- (a) in sub-section (3 -a), the following proviso shall be added to clause (I) namely: -

" Provided that in the Scheduled Areas, Offices of Chairmen of all the Samitis shall be reserved for the Scheduled Tribes." and

- (b) after sub-section {3-b), the following sub-section shall be inserted namely: -

"(3-c) Notwithstanding anything continued in this section the Government may nominate to a Samiti in the Schedule Areas persons belonging to such Scheduled Tribes as have no representation in the Samiti:

Providing that such nomination shall not exceed one - tenth of the total members to be elected under clause (b) of sub-section (I)".

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