

9. LOCAL GOVERNMENTS IN TAMILNADU

The 73rd & 74th Amendments to the Indian Constitution, mandating local governments in all the States of the Indian Union, have been hailed as revolutionary efforts towards decentralized and participative democracy.

"Panchayats and Urban local institutions under the new scheme are one of the most crucial processes for people to assert their community identity, fulfill their basic needs, regulate exploitation, redefine unequal and oppressive power relations, promote human rights and protect community assets for the goal of self-reliance and sovereignty"

- Human Rights Foundation Consultation, 2000

Following the Central Amendments, which came into force in 1993, the Tamilnadu Panchayats Act was passed in 1994. The 1994 Act replaced the earlier Tamilnadu Panchayats Act 1958 and brought about major changes in the functioning of the local bodies.

- A three-tier system of local government at the village panchayat, panchayat union and district panchayat levels
- A new system of quota for representatives of dalits, tribals and women

The Act paved the way for

1. the panchayats and unions to plan for their developmental needs
2. the constitution of a District Planning Committee, to prepare a development plan for the district, based on the plans given by the panchayats and panchayat unions
3. the constitution of a State Election Commission, as an independent body, for conducting elections to local bodies
4. the constitution of a State Finance Commission to lay down policies for devolution of financial powers and allocations to local bodies
5. the revival of Gram Sabhas

In the 1996 elections, following the 1994 Panchayat Act, about 1,17,000 representatives were elected for the three different tiers of local Government across Tamilnadu.

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Data about rural local bodies in Tamilnadu

| | |
|--------------------------------------|--------|
| Village Panchayats | 12,619 |
| Village Panchayat wards | 41,155 |
| Village Panchayat ward members | 97,512 |
| Panchayat Unions | 385 |
| Panchayat Union wards | 6,505 |
| District Panchayats | 28 |
| District Panchayat wards | 649 |

(Policy Note 2000-2001, Rural Development Dept, GOTN)

The 74th Amendment to the Indian Constitution paved the way for setting up urban local bodies in the various States of India. In Tamilnadu, the urban local bodies were excluded from the purview of the Act and were brought under the Nagarpalika Act. Incorporating the earlier existing various urban bodes Acts, the Tamilnadu Urban Local Bodies Act, 1998 has been enacted, but is yet to be brought into force.

Data about urban local bodies in Tamilnadu

| | |
|----------------------------|-------|
| Town panchayats | 611 |
| Town panchayat wards | 9,794 |
| Municipalities | 102 |
| Municipalities wards | 3,392 |
| Corporations | 6 |
| Corporation wards | 474 |

(Policy Note 2000-2001, Rural Development Dept., GOTN)

Even though the 73rd & 74th Constitutional amendments visualize the local bodies as “Institutions of self-governance”, the framing of the Act provides so many loopholes to block such independent functioning on the part of the local bodies. Much of the hope generated by the Constitutional amendments has already evaporated.

There have been frequent and well-documented criticisms about the very way the 1994 Tamilnadu Act has been visualized. The very casual manner in which the Act was rushed through the State Assembly and passed within a day, with absolutely no discussions, has raised serious doubts about the seriousness of the State Government. Later events seem to confirm such fears indeed!

“The 1994 Tamilnadu Panchayati Raj Act has panchayati raj only in title but does not include the real objectives and characteristics of panchayati raj. The panchayat legislation should be redrafted to wholesomely achieve the objectives of panchayati raj.”

-Tamilnadu Peoples' manifesto, 1996

Three Tiers – No Organic Link

Unlike in the earlier Tamilnadu Panchayat Act or in States like Andhra Pradesh, Kerala and West Bengal, there is no organic link, according to the Tamilnadu Panchayat Act 1994, among the three tiers through representation of elected members from the lower levels to the higher levels, This has led to different functionaries working at cross purposes.

The Tamilnadu Government has been demanding from the Centre for amendments to the Panchayat raj and Nagarpalika Acts, so that the State can revert to the two-tier system (panchayats and panchayat unions only) for the rural local bodies. The State Govt has also expressed the wish to restrict direct elections only to the village panchayat level.

The Constitution (87th Amendment) Bill, that was introduced in the Rajya Sabha in December 1999, offers no real solution but rather creates new problems. The Amendment provides for discretionary powers to the States to provide for the seats at the intermediate level to be filled by persons elected as chairpersons of village panchayats within the areas of the middle level panchayats (mandal / samiti / tehsil) and at the district panchayat level by presidents of the middle level panchayats, But in the process, it dilutes Article 243C(2) of the 73rd Amendment, which says that all seats in a panchayat should be filled by persons chosen by direct election from territorial constituencies in the area. The move is to make only gram panchayat a directly elected body.

“The 87th Constitution Amendment Bill will go against the very principle of grassroots democracy by reducing opportunities available to deprived classes the Scheduled castes, the Scheduled Tribes and women – in the rural areas to participate in decision-making at different levels. And it is no solution to the drawbacks of the 73rd Amendment”

- George Mathew, “Threat to Grassroots Democracy”,
(Hindu, 16 February 2000)

The real reason for representatives working at cross-purposes at different tiers is due to the basic refusal by the State Government to devolve powers under the 29 subjects in the 11th Schedule of the Amendment. The problem of the organic link among the three tiers can be solved by other means, for e.g., by according the status of ex-officio member to representatives of any particular body, without voting rights, in the other two bodies (Hindu, 30 April 2000).

The real reason for representatives working at cross-purposes at different tiers is due to the basic refusal of the State Government to devolve powers under the 29 subjects in the 11th schedule of the Amendment

The State Government has shown no political will to delegate powers concretely to the local bodies at different levels

And there is really no Constitutional Amendment needed to bring about representation of elected member from lower levels to higher levels, as it is already a practice in States like Kerala, Orissa, West Bengal and Tripura.

Delegation of Powers

Even though the new Constitutional amendments visualize the local bodies as “Institutions of self-governance”, the bodies have mostly remained extensions of the various departments of the State Government.

The Central Act had laid down 29 sectors in which the State Government can delegate powers to the local bodies. The 1994 Tamilnadu Panchayat Act, instead of working out specific areas where powers are delegated, merely mentions the Central Act and the 29 sectors mentioned therein.

The Tamilnadu First State Finance Commission had recommended that powers on 24 items be entrusted to panchayats and 18 items to municipal bodies. But there has been no political will on the part of the State Government.

Before Independence, these local bodies had more powers and more adequate resources than at present. Under the previous panchayat set up in the State, education and health were under the control of the panchayats.

Notwithstanding promises, the State Government has shown no political will to delegate powers concretely to the panchayats at different levels. The Government is yet to frame rules and manuals for the Tamilnadu Panchayat Act 1994.

In this context, there has been a growing demand for a “List IV”, in the lines of existing Central, State and Concurrent Lists – on matters relating to powers and functions of local bodies. And that subjects such as education, agriculture and health should be brought under the purview of the panchayats ...

“A separate “Panchayat List” on the lines of the Central and State lists should be drawn up, to deal exclusively with the issues relating to rural local bodies and their governance... This is needed so that panchayat raj Institutions (PRIs) cease to remain as mere agencies of the State and the Centre

*-Seminar on “Gram Sabha and Women”
by ISS (Chennai Centre), April 2000*

In Tamilnadu, much more than in other States, the panchayat institutions have got unduly politicized, getting mired in party politics and governed by conflicting parties interests.

The Amendment 37 (1997) to the Tamilnadu Panchayat Act has given voting power to the members of Legislative Assembly and Parliament in their respective local bodies. Again, on May 12, 1999, the Tamilnadu Assembly passed the amendment to the Tamilnadu Panchayat Act, whereby chairpersons of panchayat unions and district panchayats can now be removed through a no-confidence motion by their members. These have led to conflicts and controversies between the major parties, and in the process the powers of the panchayats have suffered.

CPI(M) has called for the formation, in the line of Kerala Government, of an ombudsman committee, headed by judges, to hear complaints against panchayat presidents...
(Hindu, 30 April 2000)

Only a non-party-political set up at the panchayat level can pave the way for true development and transparent and accountable governance.

"There is a need for a non-party-political set up at the panchayat level, which alone can pave the way for true development and corrupt-free administration"

- State level Seminar, by Tamilnadu Village Panchayats Assn and the Peoples' Governance Cell, Chennai, March 1999

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Bureaucracy Over Elected Representatives

Control of the elected representatives and local bodies by the bureaucracy has been a serious point of contention throughout. Section 205 of the Act confers even the power of removing the panchayat president to the District collector. This indeed is incompatible with the spirit of panchayat raj and is an irony of promoting self-reliant local government.

And the fact that most of the elected representatives dismissed have been women and from dalits and tribal sections, the partisan and subtly casteist nature of such decisions have been exposed. (A study done last year in Kancheepuram district revealed that ALL the village panchayat presidents dismissed by the Collector were dalits!)

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Political parties such as the CPI(M) and groups such as the Tamilnadu Village Panchayat Association have expressed serious concern over the “arbitrary removal” of panchayat representatives by district collectors.

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- Tamilnadu Village Panchayats Association
(State level Seminar, March 1999)

This provision surely needs to be repealed at the earliest.

The basic approach, among the bureaucracy and Government circles, still seems to ensure that panchayat institutions remain as mere dependent bodies, with minimal decision-making power. There is a serious need for gradual disempowering of the State Government and the bureaucracy with regard to powers of supervision, control, management, monitoring and evaluation of projects coming within the jurisdiction of the respective local bodies.

District Planning Committees (DPCs)

The District Planning Committees are required to be constituted in every district as constitutional bodies, entrusted with the task of planning from below. The 73rd Amendment paved the way for DPCs to replace the District Development Council (DDCs) that were headed by the district collector. But the functions of the district planning Committee are not defined fully.

In Tamilnadu, though district planning committees had been instituted in 28 districts (except Chennai), the district collector was made the chairperson of the Committee, while the district panchayat chairperson was relegated to the post of the vice chairperson of the same.

Mr L.C.Jain, the then State Planning Commission member for Panchayat Raj and Rural Development, had strongly disapproved the State Govt's amendment to the Act, appointing collectors as chairpersons of the district planning committees, despite the DPCs being statutory bodies.

Due to much pressure from various quarters, chairpersons of district panchayats have been authorised to head the DPCs.

But the DPCs have continued to be in a limbo. For sheer logistic reasons (the members' strength ranges from 120 to 190 in different panchayats in the State), the DPCs have not met since they were formed after the 1996 elections.

Prior to the enactment of the 1994 Panchayat Act, Tamilnadu had a Decentralised District Planning Scheme, launched in 1993-94. Only small development works, each costing not more than Rs 10 lakhs, could be taken up. The district collectors were authorized to entrust the works to the implementing agencies. An outlay of Rs 275 crores has been made for DDP schemes in the 1999-2000 budget.

But under the new order, DRDAs too have become redundant. Again the demand that the chairperson of the district panchayat become also the chairperson of the governing body of DRDA has still not met a positive answer from the State Government. There have been also demands that, following the Karnataka model, DRDA be merged with the district panchayat. Such demands have been rejected by the State govt, on the ground that district panchayats are not strong enough, and 'that the supervisory role of a body like DRDA will always be relevant'. This surely goes against the basic thrust of the 73rd amendment.

And the Government has set apart Rs 3 crores for formulation of the plans, with a promise that the DPCs will be involved in formulating a one-year annual plan and the 10th Five Year Plan

Section 165 of the Tamilnadu Panchayat Act enjoins the government to lay the annual reports of district panchayats on the table of the Assembly. But, even in the latest Budget 2000-2001, no efforts have been taken in this line.

There is a serious need to invest sufficient powers with the district panchayats, to coordinate all that is planned and happens in the district, at different levels. Funds meant for village panchayats and panchayat unions should be devolved through and by the respective district panchayat.

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Gram Sabha

Gram Sabhas were originally intended to be the nuclei of the new decentralized democracy. But the very institution of the gram sabha, as visualized in the 1994 Act, has serious structural weaknesses. Though the Agenda for gram sabhas were defined in a Government order No.245 (dated 19.11.1998), most of the crucial matters concerning the lives of the villagers, such as school administration, land and irrigation, health care, water supply etc. are outside the purview of the gram sabhas.

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The gram sabhas in Tamilnadu are convened on the 4 government holidays, namely, Republic Day (Jan 24th), May Day (May 1st), Independence Day (Aug 15th) and Gandhi Jayanthi (Oct 2nd).

Bereft of any decision-making space, there is hardly any motivation for attendance at the gram sabhas, especially for women, dalits and other weaker sections. And the amendment by the Tamilnadu Government, reducing the quorum for gram sabhas to a mere 10% has added to the cynicism all over, handing the gram sabhas in the hands of existing power and caste interests.

“Planning must begin from the Gram Sabha. Decisions regarding land sale and transfer, land alienation, setting of large projects-power, irrigation, defense etc, location of industry, hotels, Agro business, Marine processing etc must first of all be discussed in concerned grama sabha. The village Panchayat must be made the executive agent of the Gram Sabha. The Gram Sabha’s right to information must have statutory sanction in the Tamilnadu Pachayat Act.”

- Tamilnadu Peoples' Manifesto, 1996

Devolution of Funds

Inadequate finance has dogged at the constitutional functioning of the local bodies, since day one. The opposition parties have constantly claimed that village panchayats and town panchayats were passing through a serious financial crunch and development works in the rural areas had come almost to a standstill. The local bodies themselves have been constantly complaining that, due to lack of powers and finance, they are not able to deliver goods to people. They have complained that most of the panchayats did not even have funds to pay electricity charges.

Meanwhile, the Govt has constantly been claiming that the money flow has been more than generous. Claiming that ‘the overall funds flow, particularly to village panchayats, have grown almost ten-fold in the last 5 years’, the Govt has claimed the following:

- The total funds accruing to the 385 panchayat unions in the State has grown from Rs 80.13 crores in 1994-95 to Rs 239.68 crores in 1998-99. The 28 district panchayats formed in 1995-96 got Rs 1 crore that year, but last year they received Rs 40.52 crores.
- While the 12,600-old villages in the State netted Rs 34.64 crores in 1994-95 from tax and non-tax sources besides grant releases, in 1999-2000, the funds flow to them from these sources will be Rs. 303.97 crores.
- A total of nearly Rs 1800 crores find its way to rural local bodies annually at current taxation levels.
- In addition to SFC grants, each district has been given Rs 20 lakhs to help weaker panchayats to clear their water and power bills.
- Apart from the Rs 484 crores of SFC grants, which is mainly used for operational expenses, this huge sum includes Rs 71.83 crores by way of Centre’s 10th FC grants for capital expenditure and “scheme grants” of Rs 600 crores and Rs 500 crores from the State and Central Govts respectively...
(refer Govt’s press note, 4 January 2000)

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The constantly increasing share of Central schemes and Centrally sponsored schemes, which often are linked to political patronage, have been great hurdles in the way of financial self-reliance of the local bodies

The sources of revenue to panchayats are mostly threefold:

1. locally generated resources (tax and non-tax)
2. grants from State / Central Governments
3. Funds from Centrally sponsored schemes

In Tamilnadu, almost 80% of panchayat revenues are from grants from State and Central Governments. The Central Finance Commission grants are to be used for only capital works, while the State Finance Commission grants are to be used for maintenance purposes.

The Tamilnadu State Finance Commission recommended that powers on 24 items be entrusted to panchayats and 18 items to municipal bodies.

In Tamilnadu, 8% of all State taxes consolidated (except entertainment tax) has been allocated to local bodies. Out of this 8%, panchayats receive 55%. Besides, the 90% of the entertainment tax, available to local bodies, is shared between village panchayats and panchayat unions in a 70:30 ratio.

The 8% tax-share for local bodies worked out to be Rs 1174 crores in 1997-98 and Rs 1301.91 crores in 1998-99.

The State Government, in the 1997-98 Budget Speech, had accepted the recommendation of the State Finance Commission to gradually raise the 8% tax share to 9% in 1998-1999, 10% in 1999-2000 and 11% in 2000-2001. **Unfortunately this promise has not been kept.** Now the Second State Finance Commission has been constituted and its recommendations are awaited.

There have been demands that 29% share from the State's tax revenues be allocated for local bodies, on an even keel with the share accorded to the States by the Centre, or even 40% of the total state revenues to be allocated to local bodies. The thrust of the arguments has been that the amount that the local bodies get statutorily needs to be increased, so that they have the control over their funds, and not depend on the whims of the State Govt, as in the case of most grants.

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Urban Local Bodies

As per the system of financial devolution, based on the recommendations of the State Finance Commission, the following has been the financial transfers to urban local bodies (revenue and capital) during the last 4 years

| | |
|---------|------------------|
| 1995-96 | Rs 236.27 crores |
| 1996-97 | Rs 315.66 crores |
| 1997-98 | Rs 556.27 crores |
| 1998-99 | Rs 653.12 crores |

The 1999-2000 Policy Note estimates the total receipts of Municipalities for 1998-99 as Rs 474.06 crores and the expenditure under revenue account including debt service as Rs 477.23 crores. The same Policy Note also promises that in 1999-2000, Rs 103.13 crores will be transferred to municipalities as devolution from out of State taxes, Rs 27 crores as share from Entertainment Tax and Rs 41.08 crores from the Surcharge on Stamp Duty.

Quota for weaker sections

"Real decentralized governance, grassroots democracy and power to the people can be achieved only when women, dalits and other disadvantaged sections who have been elected for the first time participate actively on an informed basis, enforce their rights and perform their duties in an environment of dignity and security"

- HRF Consultation, 2000

As per the new Panchayat Act, separate reservations are provided at the six levels of village ward members, village panchayat presidents, union ward members, union chairpersons, district ward members and district presidents.

Reservations for dalits and tribals are made as per their populational proportions. Women have 33% reservation in the general category. In addition, within the reservations for dalits and tribals, 33% was reserved for women from the respective communities.

Thus calculated, the numbers in Tamilnadu work out as follows:

- seats assured for tribals..... 815
(out of this, 274 reserved for tribal women)
- seats assured for dalits..... 23,414
(out of this, 7808 reserved for dalit women)
- seats assured for women altogether..... 30,458

Real decentralized governance, grassroots democracy and power to the people can be achieved only when women, dalits and other disadvantaged sections who have been elected for the first time participate actively on an informed basis, enforce their rights and perform their duties in an environment of dignity and security

In areas characterised by caste domination and frozen caste-based set-ups, often the dalits are elected merely as benamis of higher caste persons. Except to sign in documents, they are hardly aware of their powers, nor do they even possess the pertinent documents

Such a large number of persons from among dalits, tribals and women is indeed having its own positive political and cultural impact. Yet the overwhelming reality is, the empowerment of these persons, at present, is more at the psychological level than at economic or political levels, as revealed by the following hard realities and trends.

DALITS

In areas characterised by caste domination and frozen caste-based set-ups, often the dalits are elected merely as benamis of higher caste persons. Except to sign in documents, these are hardly aware of their powers, nor do they even possess the pertinent documents.

Much worse, those dalits who manage to get elected independently face innumerable blocks in the exercising of their constitutional powers. Violent suppression, and at times even murder, awaits any dalit representative who dares to function independently.

Melavalavu - A case study

Melavalavu Panchayat, Madurai District: In 1996, Tamilnadu's panchayats went to the polls. But in the dalit reserved constituency of Melavalavu, near Madurai, the upper castes would not allow any dalit to stand for election. After much harassment and threatening, Murugesan from the determined SC community got elected as chairman. The upper castes would not allow Murugesan to function as the chairman. In June 1997, the bus in which Murugesan was traveling was stopped. Murugesan and four others were hacked to death in broad daylight.

Again, there have been cases where, due to fear among dalits, no one has dared to contest in the elections

Keeripatti and Pappapatti - case studies

Keeripatti and Pappapatti panchayats, Madurai District: A bill is introduced in the Assembly by Ko.Si.Mani for extending the special officers of the Keeripatti and Papapatti village panchayats in Madurai district from April 1, 2000 to October 24, 2001 (The extension is due to the fact that no nomination (by dalits) was filed for the election scheduled on January 28, 2000, to the posts of presidents and ward members of the two village panchayats. On protests from all over, the CM promises in the assembly, on 1 April 2000, that the extension will be restricted to 3 months and all efforts will be taken up. The problem continues.

WOMEN

Problems faced by elected women representatives have been equally, if not more, daunting. And the situation of women from among dalit and tribal communities is even worse than for other women.

In many cases, men belonging to the elected women representatives households do not allow the women independent functions, at times even acting officially on matters such as signing cheques etc.

Sexist discrimination by men of the women elected representatives makes it near impossible for the women representations to act forcefully and independently.

“Juggling house-work and politics was difficult in the initial stages. One third of the total group set aside a minimum of three to four days for official work, while about 95% of the leaders regularly participated in discussions. Access to information was inadequate. Drunkenness among men and lack of safety while traveling were the main problems. Another common complaint was the poor response to women leaders from officials...”

(A field study of 100 women leaders of Pudukottai and Thiruvalluvar districts, presented at the seminar, “Women in politics: sharing of experiences by women panchayat leaders”, organized by Ujjwala, Women’s Studies Cell, Stella Maris College, All India Democratic Women’s Association, GENDEAVOUR, Resource Centre for Gender and Development and M.S.Swaminathan Research Foundation – Hindu, 5 March 2000).

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